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Monday
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PARLIAMENTARY DEBATES
(HANSARD)

HOUSE OF LORDS
OFFICIAL REPORT

ORDER OF BUSINESS

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The abbreviation [V] after a Member's name indicates that they contributed by video call.

The following abbreviations are used to show a Member's party affiliation:

Abbreviation	Party/Group
CB	Cross Bench
Con	Conservative
DUP	Democratic Unionist Party
GP	Green Party
Ind Lab	Independent Labour
Ind SD	Independent Social Democrat
Ind UU	Independent Ulster Unionist
Lab	Labour
Lab Co-op	Labour and Co-operative Party
LD	Liberal Democrat
Non-afl	Non-affiliated
PC	Plaid Cymru
UUP	Ulster Unionist Party

No party affiliation is given for Members serving the House in a formal capacity or for the Lords spiritual.

HER MAJESTY'S GOVERNMENT

PRINCIPAL OFFICERS OF STATE

THE CABINET

PRIME MINISTER, FIRST LORD OF THE TREASURY, MINISTER FOR THE UNION AND MINISTER FOR THE CIVIL SERVICE—The Rt Hon. Boris Johnson, MP

DEPUTY PRIME MINISTER, LORD CHANCELLOR AND SECRETARY OF STATE FOR JUSTICE—The Rt Hon. Dominic Raab, MP

CHANCELLOR OF THE EXCHEQUER—The Rt Hon. Nadhim Zahawi, MP

SECRETARY OF STATE FOR FOREIGN, COMMONWEALTH AND DEVELOPMENT AFFAIRS AND MINISTER FOR WOMEN AND EQUALITIES—The Rt Hon. Elizabeth Truss, MP

SECRETARY OF STATE FOR THE HOME DEPARTMENT—The Rt Hon. Priti Patel, MP

SECRETARY OF STATE FOR DEFENCE—The Rt Hon. Ben Wallace, MP

SECRETARY OF STATE FOR HEALTH AND SOCIAL CARE—The Rt Hon. Steve Barclay, MP

CHANCELLOR OF THE DUCHY OF LANCASTER—The Rt Hon. Kit Malthouse , MP

SECRETARY OF STATE FOR LEVELLING UP, HOUSING AND COMMUNITIES—The Rt Hon. Greg Clark, MP

SECRETARY OF STATE FOR BUSINESS, ENERGY AND INDUSTRIAL STRATEGY—The Rt Hon. Kwasi Kwarteng, MP

COP 26 PRESIDENT—The Rt Hon. Alok Sharma, MP

SECRETARY OF STATE FOR INTERNATIONAL TRADE AND PRESIDENT OF THE BOARD OF TRADE—The Rt Hon. Anne-Marie Trevelyan, MP

SECRETARY OF STATE FOR WORK AND PENSIONS—The Rt Hon. Dr Thérèse Coffey, MP

SECRETARY OF STATE FOR EDUCATION—The Rt Hon. James Cleverly, MP

SECRETARY OF STATE FOR ENVIRONMENT, FOOD AND RURAL AFFAIRS—The Rt Hon. George Eustice, MP

SECRETARY OF STATE FOR TRANSPORT—The Rt Hon. Grant Shapps, MP

SECRETARY OF STATE FOR NORTHERN IRELAND—The Rt Hon. Shailesh Vara, MP

SECRETARY OF STATE FOR SCOTLAND—The Rt Hon. Alister Jack, MP

SECRETARY OF STATE FOR WALES—The Rt Hon. Robert Buckland, QC, MP

LEADER OF THE HOUSE OF LORDS AND LORD PRIVY SEAL—The Rt Hon. Baroness Evans of Bowes Park

SECRETARY OF STATE FOR DIGITAL, CULTURE, MEDIA AND SPORT—The Rt Hon. Nadine Dorries, MP

MINISTER WITHOUT PORTFOLIO—The Rt Hon. Andrew Stephenson, MP

MINISTER OF STATE (MINISTER FOR BREXIT OPPORTUNITIES AND GOVERNMENT EFFICIENCY)—The Rt Hon. Jacob Rees-Mogg, MP

ALSO ATTENDS CABINET

MINISTER FOR THE CABINET OFFICE AND PAYMASTER-GENERAL—The Rt Hon. Michael Ellis, QC, MP

PARLIAMENTARY SECRETARY TO THE TREASURY AND CHIEF WHIP—The Rt Hon. Chris Heaton-Harris, MP

CHIEF SECRETARY TO THE TREASURY—The Rt Hon. Simon Clarke, MP

LORD PRESIDENT OF THE COUNCIL AND LEADER OF THE HOUSE OF COMMONS—The Rt Hon. Mark Spencer, MP

ATTORNEY-GENERAL—The Rt Hon. Suella Braverman, QC, MP

MINISTER WITHOUT PORTFOLIO—The Rt Hon. Nigel Adams, MP

MINISTERFOR VETERANS' AFFAIRS—The Rt Hon. Johnny Mercer, MP

DEPARTMENTS OF STATE AND MINISTERS

Business, Energy and Industrial Strategy—

SECRETARY OF STATE—The Rt Hon. Kwasi Kwarteng, MP

MINISTER OF STATE—The Rt Hon. Greg Hands, MP (Minister for Energy, Clean Growth and Climate Change)

PARLIAMENTARY UNDER-SECRETARIES OF STATE—
Lord Callanan (Minister for Business, Energy and Corporate Responsibility)
Jane Hunt, MP (Minister for Small Business, Consumers and Labour Markets)

Cabinet Office—

PRIME MINISTER, FIRST LORD OF THE TREASURY, MINISTER FOR THE UNION AND MINISTER FOR THE CIVIL SERVICE—The Rt Hon. Boris Johnson, MP

CHANCELLOR OF THE DUCHY OF LANCASTER—The Rt Hon. Kit Malthouse, MP

COP 26 PRESIDENT—The Rt Hon. Alok Sharma, MP

MINISTER FOR THE CABINET OFFICE AND PAYMASTER-GENERAL—The Rt Hon. Michael Ellis, QC, MP §

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LEADER OF THE HOUSE OF LORDS AND LORD PRIVY SEAL—The Rt Hon. Baroness Evans of Bowes Park

MINISTER WITHOUT PORTFOLIO—The Rt Hon. Andrew Stephenson, MP

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The Rt Hon. Jacob Rees-Mogg, MP (Minister for Brexit Opportunities and Government Efficiency)
The Rt Hon. Nigel Adams, MP (Minister without Portfolio)
The Rt Hon. Johnny Mercer, MP (Minister for Veterans' Affairs)
Lord True, CBE

Parliamentary Secretaries—
Heather Wheeler, MP
Peter Bone, MP (Deputy Leader of the House of Commons) §

Defence—

Secretary of State—The Rt Hon. Ben Wallace, MP

Ministers of State—
Jeremy Quin, MP (Minister for Defence Procurement)
Baroness Goldie, DL
James Heappey, MP
Leo Docherty, MP (Minister for Defence People)

Digital, Culture, Media and Sport—

Secretary of State—The Rt Hon. Nadine Dorries, MP

Minister of State—Matt Warman, MP

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Damian Collins, MP
Lord Parkinson of Whitley Bay (Minister for Arts) §

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Secretary of State—The Rt Hon. James Cleverly, MP

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Baroness Barran, MBE (Minister for the School System)

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Ministers of State—
Victoria Prentis, MP (Minister for Farming, Fisheries and Food)
The Rt Hon. Lord Goldsmith of Richmond Park (Minister for the Pacific and the International Environment) §

Parliamentary Under-Secretaries of State—
Steve Double, MP
The Rt Hon. Lord Benyon (Minister for Rural Affairs, Access to Nature and Biosecurity)

Foreign, Commonwealth and Development Office—

Secretary of State and Minister for Women and Equalities—The Rt Hon. Elizabeth Truss, MP

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The Rt Hon. Amanda Milling, MP (Minister for Asia and the Middle East)
Lord Ahmad of Wimbledon (Minister for South and Central Asia, North Africa, United Nations and the Commonwealth)
Graham Stuart, MP (Minister for Europe)
The Rt Hon. Lord Goldsmith of Richmond Park (Minister for the Pacific and the International Environment) §

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Rehman Chishti, MP (Minister for North America, Sanctions and Consular Policy)
Baroness Stedman-Scott, OBE, DL (Minister for Women) §
Amanda Solloway, MP (Minister for Equalities) §

Health and Social Care—

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Ministers of State—
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Maria Caulfield, MP (Minister for Health)

Parliamentary Under-Secretaries of State—
Maggie Throup, MP (Minister for Vaccines and Public Health)
James Morris, MP (Minister for Primary Care and Patient Safety)
Lord Kamall (Minister for Technology, Innovation and Life Sciences)

Home Office—

Secretary of State—The Rt Hon. Priti Patel, MP

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Stephen McPartland, MP (Minister for Security)
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Sarah Dines, MP §
Simon Baynes, MP (Minister for Illegal Migration) §
Amanda Solloway, MP (Minister for Safeguarding) §

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Tom Pursglove, MP (Minister for Crime and Policing) §

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Lord Bellamy, QC

Law Officers—

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Advocate-General for Scotland—Lord Stewart of Dirleton, QC

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Lord President of the Council and Leader of the House of Commons—The Rt Hon. Mark Spencer, MP

Deputy Leader of the House of Commons—Peter Bone, MP §

Leader of the House of Lords—

Lord Privy Seal and Leader of the House of Lords—The Rt Hon. Baroness Evans of Bowes Park

Deputy Leader of the House of Lords—The Rt Hon. Earl Howe

Levelling Up, Housing and Communities—

Secretary of State—The Rt Hon. Greg Clark, MP

Ministers of State—
Paul Scully, MP
Marcus Jones, MP (Minister for Housing)

Parliamentary Under-Secretaries of State—
Eddie Hughes, MP (Minister for Rough Sleeping and Housing)
Lia Nici, MP (Minister for Levelling Up)

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Minister of State—The Rt Hon. Conor Burns, MP

Parliamentary Under-Secretary of State—Lord Caine

Scotland Office—

Secretary of State—The Rt Hon. Alister Jack, MP

Parliamentary Under-Secretaries of State—
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Lord Offord of Garvel

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Secretary of State—The Rt Hon. Grant Shapps, MP

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Trudy Harrison, MP

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Treasury—

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Chief Secretary—The Rt Hon. Simon Clarke, MP

Financial Secretary—The Rt Hon. Lucy Frazer, QC, MP

Minister for the Cabinet Office and Paymaster-General—The Rt Hon. Michael Ellis, QC, MP §

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Exchequer Secretary—Alan Mak, MP

Parliamentary Secretary and Chief Whip—The Rt Hon. Chris Heaton-Harris, MP

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UK Export Finance—

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Parliamentary Under-Secretary of State—Andrew Griffith, MP (Minister for Exports) §

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Secretary of State—The Rt Hon. Dr Thérèse Coffey, MP

Minister of State—Chloe Smith, MP (Minister for Disabled People, Health and Work)

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- David Rutley, MP (Minister for Welfare Delivery)
- Julie Marson, MP (Minister for Employment) §
- Baroness Stedman-Scott, OBE, DL (Minister for Work and Pensions) §

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Comptroller—Rebecca Harris, MP

Vice-Chamberlain—Michael Tomlinson, MP

Government Whips, House of Lords—

Captain of the Honourable Corps of Gentlemen-at-Arms and Chief Whip—The Rt Hon. Lord Ashton of Hyde

Captain of the Queen's Bodyguard of the Yeomen of the Guard and Deputy Chief Whip—The Earl of Courtown

Baronesses in Waiting—
- Baroness Scott of Bybrook, OBE
- Baroness Bloomfield of Hinton Waldrist
- Baroness Penn

Lords in Waiting—
- Lord Parkinson of Whitley Bay §
- Viscount Younger of Leckie
- Lord Sharpe of Epsom, OBE

§ Members of the Government listed under more than one department

HOUSE OF LORDS

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Senior Deputy Speaker—Lord Gardiner of Kimble
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THE
PARLIAMENTARY DEBATES
(HANSARD)

IN THE THIRD SESSION OF THE FIFTY-EIGHTH PARLIAMENT OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND COMMENCING ON THE SEVENTEENTH DAY OF DECEMBER IN THE SIXTY-EIGHTH YEAR OF THE REIGN OF

HER MAJESTY QUEEN ELIZABETH II

FIFTH SERIES **VOLUME DCCCXXIV**

THIRD VOLUME OF SESSION 2022-23

House of Lords

Monday 5 September 2022

2.30 pm

Prayers—read by the Lord Bishop of Oxford.

Deaths of Members and a Former Member

2.38 pm

The Lord Speaker (Lord McFall of Alcluith): My Lords, I regret to inform the House of the deaths of the noble Lord, Lord Trimble, on 25 July, the noble Earl, Lord Home, on 22 August and the noble Lord, Lord Radice, on 25 August, following his retirement on 1 August. On behalf of the House, I extend our condolences to the families and friends of the noble Lords.

Retirements of Members

2.38 pm

The Lord Speaker (Lord McFall of Alcluith): My Lords, I should also like to notify the House of the retirements with effect from 22 July of the noble and learned Lord, Lord Mackay of Clashfern, and the noble Lord, Lord Astor of Hever, pursuant to Section 1 of the House of Lords Reform Act 2014. On behalf of the House, I thank the noble and learned Lord and the noble Lord for their much-valued service to the House.

European Court of Human Rights
Question

2.39 pm

Asked by ***Lord Foulkes of Cumnock***

To ask Her Majesty's Government what assessment they have made of the effectiveness of the work of the European Court of Human Rights.

The Parliamentary Under-Secretary of State, Ministry of Justice (Lord Bellamy) (Con): My Lords, successive Governments have long expressed concerns about the effectiveness of the Court of Human Rights and its ability to manage a significant case load, but we welcome the important and ongoing efforts made since the entry into force of protocol 14 to the convention in 2010 and the further reforms which followed the Interlaken declaration and the UK-led Brighton conference. These have helped to ensure that the court focuses on the highest priority cases before it.

Lord Foulkes of Cumnock (Lab Co-op): I can understand why the Minister is in a bit of limbo at the moment, given what is happening beyond this Chamber, but I remind him that on three occasions at that Dispatch Box he said not only that will we remain a member of the European Court of Human Rights but that we will continue to play a leading role, yet outside this Chamber, when he was making those statements, Liz Truss and Suella Braverman, who are going to have quite an influence over the next few months, said they wanted to withdraw. So what is the Government's position now in relation to the European Convention on Human Rights? Will the noble and learned Lord have courage, particularly following the excellent report of the Law Society today, and reaffirm our position that we will remain in the European Convention on Human Rights?

Lord Bellamy (Con): The Government's position is unchanged.

Noble Lords: Oh!

Lord Bellamy (Con): While I am on my feet—in view of the political situation, I fully understand why noble Lords want to have a little bit of amusement at my expense—I take this opportunity to thank and congratulate the noble Lord, Lord Foulkes, who has posed this Question, for his work at the Parliamentary Assembly of the Council of Europe. That Assembly

[Lord Bellamy]
plays a very important role in the convention, and the UK plays a very important part in the Assembly. I particularly commend the noble Lord for his work on sport and human rights and his recent report looking at the protection of underage players against risks of abuse and other matters. I thank the noble Lord for his Question.

Lord Beith (LD): Will the Minister confirm that the Government intend to use the Bill introduced in the other House to limit the ability of citizens to use the convention on human rights to safeguard their position against an over-mighty state? Does that not sit very oddly with the victor of the Conservative Party leadership contest quite often asserting her dislike of an over-mighty state? Is this not one of the main protections against it?

Lord Bellamy (Con): It is a protection and will remain a protection. The rights in the convention will continue to be respected and enforced by the courts of the United Kingdom as before.

Lord Anderson of Swansea (Lab): Does the Minister agree that, if we were to withdraw from the convention, we would have to withdraw from the Council of Europe and global Britain would be even less global?

Lord Bellamy (Con): I am afraid your Lordship's question does not arise, since we are not withdrawing from the convention or indeed from the Council of Europe.

Lord Wolfson of Tredegar (Con): My Lords, the Brighton declaration, which was agreed by all state parties to the convention in 2012 under the UK chairmanship of the Committee of Ministers of the Council of Europe, was a clear demonstration of our leadership of that organisation. That declaration set out plans to both reform the convention and improve the effectiveness of the Strasbourg court. Is my noble and learned friend the Minister able to update us as to how the Government are building on that legacy?

Lord Bellamy (Con): We remain a leading force for human rights in the Council of Europe; I will give two examples in response to my noble friend's question. We are supporting the development of a binding convention to protect the profession of lawyer and the right to practise the profession without prejudice or restraint, and we advocated among other member states for greater awareness of the convention rights among all state parties. This led to a new recommendation in September 2021 on the dissemination of the convention and other relevant texts. In addition, we will shortly participate in the Council of Europe's Steering Committee for Human Rights, which will start a review of the system for the selection and election of judges to that court.

Lord Ponsonby of Shulbrede (Lab): My Lords, on 14 July in response to the Human Rights Act debate tabled by my noble friend Lady Whitaker, the Minister said he had plans to visit each of the devolved legislatures shortly to narrow the differences between the UK Government and those legislatures. Has he had those meetings, and how did they go in terms of narrowing the differences?

Lord Bellamy (Con): My Lords, the position is that those meetings have not yet taken place. It proved quite difficult to arrange them in the Recess and in the light of the impending change of government. I am due to see the Welsh Government on the 19th of this month, and provisional dates for Scotland and Northern Ireland have been arranged for before the end of September.

Lord Naseby (Con): Can my noble and learned friend confirm that, when Her Majesty's Government have knowledge of a case that is relevant, any evidence that Her Majesty's Government have is automatically offered, rather than partially offered or perhaps sometimes no evidence offered at all?

Lord Bellamy (Con): I am sorry, but I am not sure I entirely follow my noble friend's question.

Lord Naseby (Con): I am seeking clarification that Her Majesty's Government, when they know there is a case that is relevant to a citizen or party in the UK, automatically bring forth any evidence that Her Majesty's Government have.

Lord Bellamy (Con): I think the answer to that question is in the affirmative. The UK Government follow carefully any case that concerns UK citizens under the convention.

Baroness Chakrabarti (Lab): Does the Minister, as a jurist of some distinction, agree that dialogue between domestic courts and international ones is incredibly important, and that is what is enshrined in the Human Rights Act?

Lord Bellamy (Con): I thank the noble Baroness; I entirely agree with the importance of dialogue.

Lord Roberts of Llandudno (LD): My Lords, is this not the time for people to come together instead of separating from each other, especially when we see what is happening in Ukraine and so on? This is our opportunity to unite people, not divide them. I hope the new Cabinet and the new Prime Minister will bear that in mind.

Lord Bellamy (Con): I entirely understand the sentiments expressed by the noble Lord.

Lord Sandhurst (Con): My Lords, does the Minister agree that the Strasbourg court in Al-Skeini v United Kingdom made a fundamental and damaging error and acted inconsistently with the Vienna convention in holding that the procedural duty under Article 2 of the convention has extraterritorial effect? Has that not damaged the court's standing in this country and abroad?

Lord Bellamy (Con): My Lords, I think it is fair to say that the Al-Skeini judgment has raised various problems, and part of the Bill that will shortly be before your Lordships is intended to deal with the question of the extraterritorial ambit of the convention.

Lord Browne of Ladyton (Lab): My Lords, on the day of the publication of the Bill of Rights Bill, the Minister, writing for ConservativeHome, described it as a "modern framework" for human rights. In Clause 24(3), the Bill instructs judges not to have regard to any interim measure issued by the European Court of Human Rights. Would the Minister like to explain to President Zelensky how that is consistent with a modern framework when, in the case of Ukraine v Russia, he successfully gained an interim measure against Russia in the European Court of Human Rights to constrain it from using military force against civilians?

Lord Bellamy (Con): The position of interim measures under the convention, and in the jurisprudence of the European Court and its rules of procedure, is a matter of great delicacy that at the moment is in effect being scrutinised in the Rwanda proceedings currently before the High Court in this country. I think it inappropriate to go further, but the provision in the Bill to which the noble Lord has referred is, in the Government's view, entirely in accordance with the convention.

Water Companies: Borrowings

Question

2.49 pm

Asked by ***Lord Hain***

To ask Her Majesty's Government whether water companies' borrowings have increased since they were privatised; and if so, by how much.

The Minister of State, Department for the Environment, Food and Rural Affairs and Foreign, Commonwealth and Development Office (Lord Goldsmith of Richmond Park) (Con): My Lords, as of 31 March this year, water companies have reported total borrowing of £57.6 billion. Privatisation of the water sector has delivered around £170 billion of investment through private finance and this country would not have seen that level of investment if the water industry was in public ownership. Holding a licence to provide an essential public service of this sort is a privilege. Governments and regulators have high expectations of water companies and of the financial behaviours of their owners and investors.

Lord Hain (Lab): My Lords, surely the Government have to reform the privatised water system. Despite a huge hike in pumping raw sewage into rivers and off beaches, abject failures to fix chronic and widespread leakages amid hosepipe bans and a total failure to reduce discharges from storm overflows, annual bonuses paid to water company executives rose by 20% in 2021. Since privatisation, customers' bills have shot up by 40% and the companies have paid out £72 billion in dividends. Yet in Wales, 45% of rivers are of good ecological status, compared with 14% in England. Wales also secured 45 Blue Flag beaches and marinas last year, proportionately many more than England. Will Ministers replace the broken England model with the Welsh not-for-dividend one, which also means that returns going to shareholders are invested in infrastructure and capital is raised at a lower rate?

Lord Goldsmith of Richmond Park (Con): My Lords, I cited figures in relation to investment by the sector, so I will not repeat them. But I make the point that, as a consequence of the Environment Act, which this House, along with the other place, brought into law just a few months ago, companies are now required to be transparent in a way that they never had to be before about how executive bonuses and dividends are linked to services for customers. Ofwat is still going through the process but will have the power, as a consequence of the Environment Act, to tie the licensing system to the performance of companies in relation to that link between pay and performance. That is a first; it would not have happened were it not for the Environment Act.

In relation to storm overflows, I am sure the question will come up again but the noble Lord exaggerates the course of action over the last few years. I will not for a second pretend that we do not have a problem with sewage flowing into our waters but the situation is getting better, not worse.

Noble Lords: Oh!

Lord Goldsmith of Richmond Park (Con): It is simply an objective fact that we are the first Government specifically to tackle sewage overflows in the way that we have. We are the first Government to set a legal requirement on water companies to tackle significantly storm overflows. That has never been there before—not before Brexit or before we joined the European Union—and is a new development. We are taking stronger action than any Government in the history of this country.

Baroness Jones of Moulsecoomb (GP): Is there any truth in the report that at least two water companies have needed cash injections and that the Government's recent sewage reduction plan was a result of those companies' poor credit ratings?

Lord Goldsmith of Richmond Park (Con): I cannot answer questions on the two companies but will ask the Minister responsible for this area and get back to the noble Baroness. The reason we took the steps we took in the Environment Act was to improve the environment. This is an issue that everyone cares about; it does not matter where they live or which part of the political spectrum they occupy. Everyone wants our waters to be clean and we are taking the strongest possible action to make them so.

Baroness Neville-Rolfe (Con): My Lords, I am grateful to the Government and to this House for the changes that were made to improve the situation on sewage, but does my noble friend think that the current system is delivering enough freshwater reservoirs for the future across the UK?

Lord Goldsmith of Richmond Park (Con): It is a good question and a number of steps are being taken at the moment. As part of the commitment that the water companies have made on investment, the numbers for which I provided earlier, we are seeing a lot of work being done between them to invest in schemes that will transfer water between areas of need and areas of plenty. We have already seen water transferred from the Lake District to the Manchester area, and from Wales to the Liverpool area. Work is under way at the moment by Anglian Water to transport water—from an investment of around £400 million—which, once completed, will mean an entirely new network longer than any motorway in the UK. That investment is happening and will continue to do so.

Baroness Butler-Sloss (CB): My Lords, is the Minister not being somewhat complacent? Beaches across the country have been unusable in this hot weather. Should the noble Lord not be worried about that?

Lord Goldsmith of Richmond Park (Con): I am deeply worried about it. As I said, I do not pretend for a second that we do not have a problem with pollution; we do. Incidentally, this is not a UK problem but one that affects countries across the European Union. But I also said, rightly, that this Government are the first to take these steps. There is now a legal requirement for those companies to take action; that did not exist before. Our plan will require water companies to deliver the largest ever infrastructure programme, with £56 billion of capital investment over 25 years. If it is followed through, the plan will protect biodiversity, the ecology of our rivers and seas and the public health of our water users for generations to come. As I said, we now have the tools to do this, but of course it is for future Governments, including this one, to ensure that they are used to their maximum.

Lord Wallace of Saltaire (LD): My Lords, the Government make great play of being on the side of the people in their opinions, as opposed to the dreadful establishment. From opinion polls over last few months, it is very clear that the popular will is in favour of reversing privatisation. Do the Government intend to stand against the people's will on this or to go along with it against the establishment?

Lord Goldsmith of Richmond Park (Con): We very much share the overwhelming view of the population of this country that more action needs to be taken to protect not just the health of our waters but the resilience of supply. This goes back to the question asked by my noble friend. But we do not believe that nationalisation is the answer: it would place an enormous financial burden on the taxpayer and would not deliver anything like the level of investment that we have seen in recent years.

Lord Grocott (Lab): Will the Minister now respond specifically to the question put to him by my noble friend Lord Hain: why is the record in Wales so much better than the one in England?

Lord Goldsmith of Richmond Park (Con): I am not convinced that the record in Wales is significantly better than the one here. A report today, which I am surprised has not been brought up yet, showed a worrying increase in pollution in areas of this country. But, in every case that has been reported, to my knowledge, that is a consequence of our having put record investment into monitoring in a way that we never did before. There were problems that were not captured but they are now, reflecting a significant increase of the problem and greater justification for the actions that we know we need to take. But I do not think that we should pretend that a problem is new because we have just discovered it; it has been there for a long time.

Lord McLoughlin (Con): My Lords, is it not a fact that, between 1997 and 2010, the then Labour Government decided not to change the way the water authorities or boards were managed because of the record levels of investment going into the industry, as my noble friend pointed out? He told us what has been going in since privatisation, but has he any figures for the level of investment when the water boards were still under the control of the Treasury?

Lord Goldsmith of Richmond Park (Con): My noble friend makes an important point. Although I do not have the numbers at the tips of my fingers, it is very clear that the record levels of investment would not have happened had the sector not been privatised. We would not see anything like that level of investment if we were to renationalise the sector. Of course we care about the manner in which executives are paid, incentivised and all the rest of it, but that is why we are now able, as a consequence of the Act that noble Lords voted through, to require total transparency through Ofwat for the first time, in a way that has been lacking until now.

Baroness Hayman of Ullock (Lab): My Lords, data that has, rather appropriately, been leaked shows that water companies' replacement of water and wastewater pipes stands at an astonishingly low average of 0.05%, with even the best performers replacing only 0.2% of their network every year. Does the Minister believe that we should be replacing our pipe network slightly quicker than what works out to be once every 2,000 years? With a growing proportion of our pipes failing, and with many over 100 years old, just how bad can water wastage and sewage spillage become?

Lord Goldsmith of Richmond Park (Con): I have to admit that I am not familiar with the leak that the noble Baroness describes, but there are certainly problems with leaks, and not just in government. We have a serious need for investment in the pipe network, which has been made a lot worse by record heat this summer. As noble Lords will know, the heat causes the ground to shift, which imposes significant stress on pipes. A record number of pipes now need to be fixed, which requires investment. But there is a clear obligation, which is associated with very severe penalties for companies not investing in tackling this problem. The Government have been clear that this will remain a priority.

Integrated Care Boards

Question

2.59 pm

Asked by ***Baroness Merron***

To ask Her Majesty's Government how they are monitoring and assessing the transition of Clinical Commissioning Groups to Integrated Care Boards; and how the success and impact of the new structure will be evaluated and reported to Parliament.

The Parliamentary Under-Secretary of State, Department of Health and Social Care (Lord Kamall) (Con): Integrated care boards took over the role of commission and secondary care services from clinical commissioning groups on 1 July 2022. NHS England formally oversees these ICBs, and it has a legal duty to assess annually the performance of each ICB and to publish its findings. CQC system assessments will also provide an independent assurance to the public and Parliament. The success and impact of these new arrangements will be measured by a DHSC-commissioned evaluation completed by academics.

Baroness Merron (Lab): My Lords, there are key factors to providing successful health and social care services that are outside the control of integrated care boards but very much within the control of the Government, including workforce supply and investment in social care capacity. Could the Minister tell the House how the impact of government provision will be measured and, where necessary, what action will be taken to put this right so that ICBs are actually able to deliver quality joined-up services for local people?

Lord Kamall (Con): As the noble Baroness will be aware, a lot of the work at the local level will be done by the ICBs, in partnership with others, under the ICS system. On the Government's role on workforce, the department commissioned Health Education England to produce a report to look at the long-term strategic drivers to support long-term workforce planning. This work is nearing its final stages. We have also commissioned NHS England and NHS Improvement to develop a long-term workforce plan for the next 15 years. In addition, as the noble Baroness will know, Section 41 of the Health and Care Act 2022 gives the Secretary of State a duty to publish a report at least every five years.

Baroness Chisholm of Owlpen (Con): My Lords, can my noble friend the Minister say whether the importance of civil society to these care boards is realised? It is often local charities that really know what is going on in a community, and it is really important that they are involved going forward.

Lord Kamall (Con): My noble friend makes a really important point on this: if you look at the structure at the local level, you will see the ICBs, but they are in partnership with civil society organisations and others to form the ICP. The integrated care boards and integrated care partnerships together comprise the integrated care system locally. When looking at local health needs and the health of populations, particularly in deprived areas, it is really important that we work with local charities and civil society organisations; they are quite often trusted more by local people than professionals.

Lord Laming (CB): My Lords, I know the Minister agrees that the NHS depends very heavily on efficient and effective social care services being available to it. Could the Minister tell the House whether he is satisfied that, throughout the country, local social care services will be involved in these new arrangements from the outset and as equal partners?

Lord Kamall (Con): During the debate on the Health and Care Bill, which became the Health and Care Act, one of the things on which we agreed across the House was that each integrated care board should have the appropriate mix of skills. I think that was thanks to an amendment by the Liberal Democrats. This particular issue shows that we need to ensure that we are considering all the important aspects of health. One of the things that will be very important is the parity of mental health with physical health. All these issues will be considered at the local partnership level.

Baroness Brinton (LD): My Lords, one of the key elements of ensuring there is a good transition is the procurement process. Last month, three CCGs were fined for using considerable organisational bias to ensure that their contracts went to a preferred company. The fine must be paid by the ICB, and the staff from the CCG are now in the ICB. What are the Government going to do to ensure that this sort of practice is monitored and ruled out by the new bodies as they get under way?

Lord Kamall (Con): I hope the noble Baroness will remember that, during the debate on the Health and Care Bill, there were concerns about private sector bias, as it were, in giving contracts. We agreed to an amendment suggesting that there should be no conflict of interest. I am afraid I am not aware of the specific cases that the noble Baroness raises, but I will look into them and write to her.

Lord Turnberg (Lab): Does the Minister agree that yet another reorganisation of the management structure of the NHS is irrelevant to the latest problem facing the NHS, which is the dramatic loss of staff? We are losing thousands every month. That is where we should be focusing our efforts—does he not agree?

Lord Kamall (Con): One of the challenges that we all face, and that the system as a whole faces, is that, even though we have more doctors and nurses than ever before, demand is outstripping the supply of healthcare workers. One reason for that is that there are far more conditions that would not have been considered years ago. Therefore, the Government, in partnership with the NHS, are looking at particular issues—for example, retention of the workforce, where they are worried about their pensions, and making social care an attractive vocation, with training and skills, as well as looking to recruit people, as we did after the war. As I often remind noble Lords, it was people from the Commonwealth who saved our health service after the war, and when we do not have the skills locally we will look to recruit people from abroad.

Baroness Meacher (CB): I understand from a senior ICB medical member that doctors expect general practice to be in the position that dentistry is in today in a bit of time. In other words, access to a GP will depend on the ability to pay. That is incredibly serious—it is the end of the NHS as we have known it, free at the point of delivery and need. Will the Minister take back to his colleagues the absolutely essential point that the Government must ask the ICBs to prioritise the assessment of general practice in their areas and to develop a strategy to ensure that general practice continues to be free at the point of need?

Lord Kamall (Con): The noble Baroness makes the point about general practice. One thing that we are looking at, which will probably come up in the debate later in the week on the future of primary care, is the whole issue of what GPs do. There are many things they do that they do not have to do—these could be done by local partners, practice nurses, physiotherapists or social prescribing, and so on. In addition, Ministers and the NHS have been in conversation with GPs' representatives, looking at these particular issues.

Baroness Altmann (Con): My Lords, could my noble friend update the House on the scheme for bringing in overseas workers to fill the gaps in social care that have opened up so seriously over the last year or two? There have been suggestions that the salary level—which currently does not allow sufficient numbers of care workers to come into the UK, when they are desperately needed—might be lowered. Is there any update for the House on that?

Lord Kamall (Con): I thank my noble friend for the question. The last I was aware of—and I shall look at it and write to my noble friend—was that, under the visa scheme, we were looking to bring in people from overseas to fill those vacancies. We have historically done that; as I said, after the war we looked to people from the Commonwealth, who came and saved our public services. Clearly, when we are unable to recruit enough people locally, we have to look at those issues and at whether it is something to do with the education system, and whether we can encourage them to come forward. But where there are gaps we will have to look more widely to our partners around the world.

Lord Hunt of Kings Heath (Lab): My Lords, when the Minister took the Bill through the House, he argued that a restructuring was necessary to integrate services, yet outside every acute hospital dozens of ambulances are stacked up every day, often waiting for hours with patients inside, because we have a disintegrated system. Can he show me what the integrated care boards are doing today to end that dreadful practice?

Lord Kamall (Con): One priority of my right honourable friend the Secretary of State—I think he is still the Secretary of State—has been to look at the ambulance system. On a wall in his office, he has all the various things; he has talked to various partners and he has brought people together to see what the problems are, why we are unable to unload patients into hospitals, what the blockages are and how we can address this from a systemic view.

Lord Patel (CB): My Lords, the recent Civitas report put the UK second from bottom in patient outcomes in key areas of cardiovascular disease, cancer and a reduction in life expectancy. Can the Minister say what role commissioning should play in improving patient outcomes?

Lord Kamall (Con): On patient outcomes, the noble Lord is quite right: we need to look at the statistics—where we are doing well and where we are not doing so well—and then focus efforts at not only the national level but the local ICB level, to make sure there is the appropriate commissioning. Indeed, one responsibility of the local integrated care board is to look at what services are needed in the local area and make sure that they are commissioned.

Four-Day Working Week

Question

3.09 pm

Asked by ***Baroness Bennett of Manor Castle***

To ask Her Majesty's Government what assessment they have made of the benefits of a four-day working week as standard.

The Parliamentary Under-Secretary of State, Department for Business, Energy and Industrial Strategy (Lord Callanan) (Con): My Lords, the Government have assessed the costs and benefits of flexible working, but not specifically a four-day week. We do not believe that there can be a one-size-fits-all approach to work arrangements. That is why, rather than telling people and businesses how to work, we put individual agency and choice at the heart of our approach to flexible working. In this way, individuals and employers can work out the best arrangements for their particular circumstances.

Baroness Bennett of Manor Castle (GP): I thank the Minister for this Answer, although I regret its emphaticness. I know the difficulty of any Minister giving assurances at the present time, but can the Minister assure me at least that the Government will look carefully at the results of the large, significant, global trial in which Britain is taking a large part? That is the trial being taken though by the 4 Day Week Global partnership with Autonomy and the UK campaign, which will be assessed by academics, including from Oxford and Cambridge. There are scores of different companies taking part. Will the Minister say that the Government will look at these results?

Lord Callanan (Con): Yes, of course. As I said, we are committed to flexible working: indeed, we gave people the right to request flexible working in legislation. So we are committed to the principle, but the circumstances will of course vary from individual to individual and from organisation to organisation. What is good for one sector is not good for another—but of course we will keep these things under review.

Lord Fox (LD): My Lords, that is all well and good, but Jacob Rees-Mogg recently said that he wanted to crack down on flexitime, and he has also been very hard on working from home. I agree with the Minister's point that it should be up to individual employers to assess the benefits of flexible working and, indeed, working from home. The Government are the employer of hundreds of thousands of people, so what is their assessment of flexible working and working from home when it comes to operational effectiveness, skills and recruitment and employee well-being? What data is being gathered and when can we see it?

Lord Callanan (Con): The right to request flexible working applies as much in the public sector as in the private sector. Civil servants already have very good working conditions and many do work flexibly—there are, for instance, many job-share arrangements in my department. So we think it is a good thing, but it very much depends on the circumstances of individual organisations.

Lord Grocott (Lab): Does the Minister acknowledge that a reduction in the working week has been a trend overall—although there have been hiccups—in people's working experience over the last 100 years? The previous generation would normally have worked a five-and-a-half-day week, not a five-day week. Is not the problem at present that those people who are lucky enough to be able to work from home are, in effect, having their working week shortened in any case, because they no longer have to spend time travelling to work? Is it not therefore important—in fact, essential—that, if there is to be any reduction in the working week, it applies as well to those people who cannot work from home, who are often in heavy, demanding and physical jobs? They are the ones who need to see their working week reduced.

Lord Callanan (Con): The noble Lord makes an important point. Of course, there has been a general reduction over decades, and if that continues it is a good thing. But it depends on the individual circumstances and on the industry—the noble Lord made that important point. However, even during the pandemic, there was a maximum of only about 48% of people who were ever working from home, because many other people in essential industries and other service industries could not.

Baroness Berridge (Con): My Lords, does my noble friend agree that are a number of mandated four-day weeks? We obviously have a number of bank holidays per year and there is an inequality between the nations as to the number of bank holidays that workers get. Can my noble friend undertake to look at those bank holidays? The schools have gone back today and the next bank holiday is in fact Christmas Day. For many workers who have a statutory holiday entitlement plus the bank holidays—not including them—this could be of real benefit to them.

Lord Callanan (Con): My noble friend makes a very good observation. Of course, there have been a number of bank holidays recently and we keep these things under review. I do not think there are any immediate plans to introduce any additional ones, but I am sure it is something that the new PM will want to look at.

Lord Bassam of Brighton (Lab): My Lords, the noble Lord of course will be aware that many four-day week working pilots are going on across the world, including one involving 3,500 workers here. The pandemic has proved, I think, that flexible working works and is an effective way of ensuring that we maintain levels of productivity, so will the Government commit not just to carrying out a review of the pilot but, when that pilot is complete, to publishing their own findings and then reviewing their policy? This is a very important policy direction for this country and it could unlock greater levels of productivity, which we are much in need of the moment.

Lord Callanan (Con): Of course we will take any lessons that are learned through the different pilot studies that are taking place. I think I disagree with the noble Lord that the pandemic proved that flexible working is the norm: it worked in some areas and some industries, but of course the Government did pay huge numbers of people to stay at home during the furlough scheme, which is not something we could ever carry on doing. Of course, it can work in some industries: a number of private sector companies have adopted it and, great, if it works for their particular circumstances and their particular employees, good for them—but it does not work for every industry.

Lord Austin of Dudley (Non-Afl): My Lords, is it not fantasy economics to pretend that most employers can afford to pay people the same amount of money for working fewer hours? The truth is that there is no simple answer, no quick fix, to dealing with the weakness of our economy: it requires hard work, serious policies to improve productivity and investment in education and skills. We have to invest in technology, innovation and green industries, so that we can create good new jobs, particularly in places such as the West Midlands that have lost their traditional industries and struggle to find new ones. There is no easy answer to this, whether it is reducing hours and pretending to pay people the same money or, for example, the universal basic income.

Lord Callanan (Con): I think I was agreeing with the noble Lord right up to his last sentence. Yes, of course there are no simple answers, and it can work for one industry and not for others; I really doubt that a universal basic income is the answer to this, though.

Baroness Ritchie of Downpatrick (Lab): My Lords, as part of the Minister's work in assessing the benefits of flexible working and four-day working weeks, and all the many outputs from the pandemic in terms of much good work and much good production as a result of working from home, will he consider talking to ministerial colleagues in the devolved Administrations and seeking a view on best practice in other countries such as New Zealand, which has stated that there is much to be gained from a four-day week?

Lord Callanan (Con): Of course, we have regular discussions with Ministers in the devolved Administrations: in fact, I spoke to one only on Friday. So, yes, of course we will learn any lessons that other countries can show us—but, as I said, there are no easy answers to this. It is a complicated area and can work in one sector but not in others.

Lord Leigh of Hurley (Con): My Lords, the Question talks specifically about four days a week, not about working from home. Bizarrely, this may have the effect of increasing productivity, only because productivity in this country is measured as output per hour. So, when the Government consider the devastating effect a four-day week would have, can the definition of "productivity" be refined to take account of the fact that it is total GDP we are interested in, not output per hour?

Lord Callanan (Con): Again, my noble friend makes an interesting point. Of course, there are many different ways of defining it. He is right to point out that productivity is the key to this. If there is evidence that people will work smarter and harder during the time they are at work, of course that would be a good thing and it would help to bring it about.

Baroness Wheatcroft (CB): My Lords, the Minister has quite rightly stressed the importance of businesses being able to decide this sort of thing for themselves—what is right for them. So can he give the House an assurance that, under this Government, there will be no return to a three-day week, whatever happens in the energy crisis?

Lord Callanan (Con): Well, we have no plans for a four-day week; we certainly do not have any plans for a three-day week.

Lord Hendy (Lab): My Lords, it is all very well to say that the negotiation of working time should be between individuals and businesses, and I understand the Minister's logic in saying so, but the reality is that employers have overwhelming power in relation to individuals. Is it not necessary to allow trade unions to speak on their behalf, and should the ministry not be encouraging collective bargaining on these issues?

Lord Callanan (Con): In this country, we believe in freedom of choice. People are free to join a trade union if they wish and, as I have remarked before, only a minority have chosen to do so.

Lord Suri (Con): My Lords, your Lordships have heard from many noble Lords that working four days is not a good idea. I would like to hear some more detail from the Minister. Would it be worthwhile to have four working days in the week?

Lord Callanan (Con): I did not really catch what the noble Lord said. If he was asking whether we will look at flexible working provisions, of course we will. We have responded to the consultation and introduced the right for employees to ask for flexible working. However, flexible working is a lot more than just a four-day week; it can involve a whole range of different flexibilities in the workplace.

Public Service (Integrity and Ethics) Bill [HL]

First Reading

3.20 pm

A Bill to make provision about mechanisms for promoting and protecting standards of integrity and ethics in the public service; and for connected purposes.

The Bill was introduced by Lord Anderson of Ipswich, read a first time and ordered to be printed.

Social Housing (Regulation) Bill [HL]

Order of Commitment

3.21 pm

Moved by ***Baroness Evans of Bowes Park***

That the order of commitment of 27 June committing the bill to a Grand Committee be discharged and the bill be committed to a Committee of the Whole House, and that the instruction to the Grand Committee of 27 June shall also be an instruction to the Committee of the Whole House.

Motion agreed.

Energy Bill [HL]

Committee (1st Day)

3.21 pm

Amendment 1

Moved by ***Lord Lennie***

1: Before Clause 1, insert the following new Clause—

"Part A1

Purpose and strategy and policy statement

Purpose

(1) The principal purpose of this Act is—

(a) to increase the resilience and reliability of energy systems across the United Kingdom,

(b) to support the delivery of the United Kingdom's climate change commitments, and

(c) to reform the United Kingdom's energy system while minimising costs to consumers and protecting them from unfair pricing.

(2) In performing functions under this Act, the relevant persons and bodies must have regard to—

(a) the principal purpose set out in subsection (1),

(b) the Secretary of State's duties under sections 1 and 4(1)(b) of the Climate Change Act 2008 (carbon targets and budgets) and international obligations contained within Article 2 of the Paris Agreement under the United Nations Framework Convention on Climate Change,

(c) the desirability of reducing costs to consumers and alleviating fuel poverty, and

(d) the desirability of securing a diverse and viable long-term energy supply.

(3) In this section "the relevant persons and bodies" means—

(a) the Secretary of State;

(b) any public authority."

Member's explanatory statement

This amendment, along with other new clauses before Clause 1, add a new Part setting out the purpose of the Bill and a requirement for a Strategy and Policy Statement in line with this Act.

Lord Lennie (Lab): My Lords, Amendments 1 to 4 and 245, along with other new clauses before Clause 1, add a new part setting out the purpose of the Bill and a requirement for a strategy and policy statement in line with the purpose of the Act.

The context for this is threefold. First is the cost of living crisis: the energy cap has risen to £3,549 a year for an average household, and National Energy Action, of which the noble Baroness, Lady McIntosh, is chair, predicts that the number of households in fuel poverty will rise to 8.9 million.

The second is net zero: the Conservative leadership candidates—including Liz Truss, the new Prime Minister—ran away from this during the recent campaign. The High Court found that the net-zero climate strategy is inadequate, and the Climate Change Committee found that credible plans existed for only 39% of emissions, citing "major policy failures" and scant evidence of delivery. The 2021 International Energy Agency report found that the current commitments will not achieve net zero on schedule as they fall well short of what is needed to reach net zero by 2050.

The third is energy security: gas prices are expected to surge to record highs this week after the Nord Stream pipeline shut down. They could reach 800p a therm, and on Friday of last week they were 320p. European prices have risen by nearly 400% over the past year already, and the UK relies on gas for approximately 40% of its power generation—even more on the coldest days when demand increases and wind generation is low. The 2017 BEIS report included a scenario of the complete cut-off of Russian gas and concluded that the UK could see significant unmet demand if the cut was prolonged and continental European countries paid whatever was necessary to keep gas flowing. In the most extreme scenario, this could result in 28% of demand being unmet and lead to cut-offs or rotations of supply.

The Bill, as we said at Second Reading, is a pick and mix of things thrown together; it lacks ambition and an overarching theme designed to tackle these issues. There is no reason to believe that the current energy crisis will not happen again as the impact of global warming is a long-term issue.

Consequently, our amendments would, first, set out a purpose for the Bill by increasing resilience and reliability of energy systems across the UK; support the delivery of the UK's climate change commitments; and reform the energy system. Secondly, they would bind the Secretary of State and the public authorities to these purposes, to our international commitments on climate change, and to the desirability of reducing costs and alleviating fuel poverty and securing a diverse and viable long-term energy supply. They would require the Secretary of State to designate a statement as a strategy and policy statement with regards to the purpose of the Act and require the Secretary of State to review both the strategy and the policy on a five-yearly basis. This would, in turn, force successive Governments into long term thinking, widen the impact and ambition of the Bill to address both short- and long-term issues, and help to ensure that, for the future, action does not come either too late or too little to solve a crisis.

I turn briefly to the other amendments in this group. Amendment 5 in the name of the noble Lord, Lord Moylan, adds a new clause requiring an assessment of the cost of achieving net zero and contrasting this with achieving net zero by later dates. Not achieving net zero by 2050 would be a breach of our international agreements and would be hugely damaging to health, livelihoods and human security, as well as our reputation on the global stage. The cost feasibility of not acting by 2050 and leaving net zero until 2065 or 2080 would be incomparable.

Amendment 6 in the name of the noble Baroness, Lady McIntosh, makes energy security the primary objective of the Bill, and while we agree with the importance of this objective, we would point to the wider focus our amendments require of the Bill. Amendment 7 in the name of the noble Lord, Lord Ravensdale, focuses on increasing the resilience and reliability of energy systems, supporting the UK's climate change commitments, and reform of the UK energy system while minimising costs to consumers—protecting them from unfair pricing—and requires the Secretary of State to report annually to Parliament on these matters. This links in well with our amendments.

Amendment 231 in the name of the noble Lord, Lord Moylan, probes the intentions behind the Government's proposal to alter the current pricing system of wholesale electricity based of the marginal cost of the last source of supply. I would be interested to see what lies behind the Government's rationale for this change. Amendment 242 in the name of the noble Lord, Lord Ravensdale, sets out a national electrification and power plan; this links in with opposition thinking.

According to McKinsey, renewables could produce more than half of the world's electricity by 2035 at lower prices than fossil fuel generation. On 18 May 2022, the EU presented the REPowerEU plan to end its dependence on Russian fossil fuels and tackle the climate crisis through energy savings, diversification of energy supply and accelerated rollout replacement of fossil fuels in homes, industry and power generation by renewable energy sources. The EU plan includes a massive scaling up and speeding up of renewables—solar, heat pumps, hydrogen, biomethane—which is not present in the Bill, and the EU plan suggests that replacing coal, oil and natural gas in industrial processes will reduce greenhouse gas emissions and strengthen security and competitiveness. Energy savings, efficiency, fuel substitution, electrification and an enhanced uptake of renewable hydrogen, biogas and biomethane could save up to 35 bcm of natural gas by 2030 on top of what is predicted under the Fit for 55 proposals. The UK must not be left behind. We must scale up our ambition. I beg to move.

3.30 pm

Lord Moylan (Con): My Lords, I rise to speak to Amendment 5 in my name, and thank the noble Lord, Lord West of Spithead, and my noble friend Lord Frost for their support, and to speak to Amendment 231, also in my name. Before doing so, I should say that since I joined your Lordships' House, my entry in the register of interests has shown my membership of the advisory board of Stirling Infrastructure Partners, a relatively new corporate advisory boutique. Stirling Infrastructure seeks business with a wide array of major corporations, some engaged in the energy field, and it struck me after speaking at Second Reading that I should perhaps have specifically drawn the House's attention to my registered interest at that point. I have not received any remuneration during my time on the advisory board, and I have since then terminated the interest.

I congratulate the noble Baroness, Lady Blake, and the noble Lord, Lord Lennie, for bringing forward Amendments 1 to 4 as a matter of general principle, because they are right that a Bill which seeks to articulate and implement our energy strategy, particularly our energy security strategy, should have a preamble that is strategic in character and should provide a setting so that we know where the Bill is heading and what it is trying to achieve. My difficulty with their amendments is that they are rather general in character and not entirely strategic. I hesitate to say this, conscious as I am that the noble Lord, Lord West of Spithead, may choose to speak, but simply aiming to win the war is not a strategy. A strategy requires something on resources, a plan and a general conception of how you are going to do it. If we are to achieve net zero, there are certain knotty issues that the Government need to be clear about so that we understand exactly what their strategy is at the level of detail appropriate to strategy. I, for one, am rather confused about the whole thing.

The purpose of my Amendment 5, which I have to admit is drafted in a rather convoluted way, for today's debate is to elicit from my noble friend on the Front Bench some answers to three particular knotty questions. The first is the cost of net zero by 2050. One would have thought that we knew what the cost was going to be, but my understanding is that the only estimate the Government have had available to rely on was produced by the Climate Change Committee, which estimates that it will be in the order of 1% of GDP a year.

I do not have an objection to dedicating government expenditure on the basis of a certain percentage of GDP. If the Government want to say that they will spend 2% or some other percentage of GDP on defence, or they will spend 0.7% or 0.5% on international aid, for example, that is perfectly legitimate. But, of course, the figure of 1% a year from the Climate Change Committee is not of that character. We are pledging to spend not 1% a year but whatever it takes to deliver net zero by 2050, and 1% a year is an estimate. Moreover, it is an estimate that relies to a high degree on certain built-in assumptions, particularly that things are going to get cheaper—that the various inputs will fall in price over time. While that might be true of some, there is no reason to think it is going to be true of all. Part of the purpose of this amendment is therefore to call for the Government to commission an independent assessment of the cost of meeting net zero by 2050.

Then, we come to the question of affordability. Achieving it by a certain date—the date set in statute—doubtless has one cost attached to it. This amendment also calls on the Government to consider as part of that assessment what it would cost to achieve it. Would it be cheaper—more affordable—especially in the current crisis we are facing, if the terminal date were not 2050 but later? I put in two particular dates but if the Government choose others, I would be happy to go with those. The issue is the principle of whether achieving net zero over a longer period would be more affordable for the people of this country.

That is the first thing this amendment is trying to elicit the Government's views on: do they have a reliable cost for achieving net zero by 2050, and would it be affordable if we took longer over it? As I said at Second Reading, bearing in mind that this country contributes a very small fraction of global emissions, the idea that achieving it by 2065 or 2050 will save the planet is simply self-delusion. We are doing this principally for exemplary purposes, rather than because of its practical effect.

Secondly, I do not wish to cause the slightest difficulty or embarrassment for my noble friend on the Front Bench, but I find the Government's existing strategy, particularly the energy security strategy, the 10-point plan and so forth, rather weak in terms of strategic content and cost assessment. What are they going to cost? Also, implementation dates are largely lacking. We also need to know the relative contribution that each of the Government's proposed measures will make to achieving net zero. Some might be very significant and others not, but we do not understand that from the documentation. That is the second purpose of this amendment. It is an important strategic question and I hope my noble friend will be able to say something about it.

The third point concerns the crucial issue, which I raised at Second Reading, of the intermittency of renewable sources. What do you do when the wind is not blowing or the sun is not shining? An obvious source to use to make up for that at the moment is gas, and that is largely what we do. Will we continue to use gas? That is one option. At Second Reading I quoted Professor Sir Dieter Helm saying that that makes the gas expensive in itself, because switching it on and off all the time is very inefficient and increases costs. However, is that the strategy? When I said that at Second Reading, the noble Baroness, Lady Bennett of Manor Castle, drew my attention to a recent report from a Finnish university that said that intermittency can be dealt with without recourse to gas. Afterwards, she kindly gave me a link to it, and I have studied it. The solution suggested—it is not unique to that university; it is fairly widespread—is that intermittency should be dealt with by way of battery power. When the wind is blowing and you do not need the electricity, you charge up the batteries, and when it stops blowing—it is the same for solar—you take the electricity out. That seems plausible at one level, and maybe it is the

solution the Government are coming to; there is stuff about batteries in the Bill. However, it raises questions about the environmental consequences of extracting the minerals needed for the batteries, and about their disposal, siting and so forth. Can the Government tell us what role they see for batteries—if it is to be batteries; maybe it is not—in dealing with intermittency?

The third suggestion I have heard is that pumped water should be used. This involves using surplus electricity to pump water up so that, when you need it, it falls down again. I believe that some installations do that—indeed, one of them is hidden inside a mountain in Snowdonia—and that a couple are to be built in Scotland shortly. My understanding is that they produce very little power. They are an interesting idea. Is it the Government's intention to roll them out at scale? What is the cost? Where are they to be sited? These are the things on which we should have some indication before we give the Government these powers. I note that there is stuff in the Bill on exactly this.

Finally, I have heard that we should use surplus power to produce hydrogen, but that assumes that there is a distribution network to take the hydrogen where it is needed when the wind is not blowing. So there are serious potential solutions to this problem. All of them have costs, both financial and environmental. Which do the Government prefer?

I have spoken quite long enough so I will come to Amendment 231 in my name, which asks a question that has been on many people's lips over the past few weeks: how do we price wholesale electricity? At the moment, as I think noble Lords are aware, the price paid to generators is the price of the highest input needed to achieve the demand that exists in the system in a particular half-hour period. In recent weeks and months, that has become gas. Whatever they use to produce electricity—be it wind, solar or whatever—everybody is receiving the same price as for gas.

To be perfectly clear, though, not everybody is receiving the same price because many of those producers will have entered into a contract for the difference—a swap arrangement—with a government-owned company. Effectively, this means that they have a guaranteed price, and it does not matter what the price is in the pool. At the moment, this is something that the European Union is looking aggressively at in terms of whether it should be changed, whether we should have a different system and whether there should be two separate pools, with one for carbon and one for renewables.

These are all things that I would like to hear the Minister say something on. I sympathise with him because today is the last day of the current Administration. Tomorrow, there will be a new Prime Minister. It may be that the Minister does not have the answers to all these questions at his fingertips in the way we would all like to hear at the moment, so an answer in due course as Committee goes on would be extremely welcome.

Baroness McIntosh of Pickering (Con): My Lords, I will speak to Amendment 6 in this group; I am grateful to the noble Lord, Lord Lennie, for his reference to it. It is intended as a probing amendment. I like to think that it is short and perfectly formed; I am grateful to the clerks for their assistance in drafting it. I remind the Committee that I am the president of National Energy Action. As the noble Lord, Lord Lennie, referred to, there are worries about households that have already fallen into fuel poverty and the strong likelihood that, by October this year or January next year, 1.5 million more households may be at risk.

Some further background to this amendment is my concern that most of the talk in the White Paper and the British energy security strategy from April, most of the talk in the recent leadership election campaign and most of the concentration of the press and media seem to focus on household fuel bills and the price cap relating to them. We must not lose sight of the impact of fuel and energy costs on small, medium and large businesses. Many have recently cited the instance of launderettes, which may not be big employers but serve a particularly useful function and are obviously highly intensive users of energy.

However, there are many others. In what was previously the Vale of York constituency, there is the York brick company, which has kilns to make its clay bricks on the go for probably two-thirds of each day—often over weekends, I imagine, if it is trying to complete an order. If we lose many such small and medium-sized companies, this especially will have a grave impact on the UK economy going forward.

3.45 pm

I am also very concerned—and I am not sure that this was pointed out in the policy paper—that the current price cap does not cover oil, solid fuels, and LPG. These are particularly important to those of us living in deeply rural areas, where we are off the gas grid and have no access to alternative fuel supplies. Many of those living in the countryside are old people, pensioners, or people living on fixed incomes, in some of the most poorly insulated housing not just in this country but, dare I say, in the whole of Europe, if not the world.

I have family in Demark and went to visit, among other places, the little summerhouse that we used to play in during our summer holidays on the fjord. Theirs is an all-year-round house built 20 or 30 years ago, with triple glazing and a modern state-of-the-art heating pump that fires up all their fuel costs except for their hot water. It is small, it is inobtrusive and it does not make a noise. Why this country always seems to be 20 or 30 years behind many others in terms of technology I simply do not know.

Amendment 6 is intended as a probing amendment. The energy security strategy policy paper and the Queen's Speech originally referred to an energy security Bill, so I accept that this Bill has gone broader than that, but I hope that my noble friend the Minister will give a commitment today that energy security will remain paramount and underlie all the terms and priorities of the Bill.

The introduction to the policy paper from the current Prime Minister—that is probably the last time that I will be able to say that—says:

> "We need a power supply that's made in Britain, for Britain—and that's what this plan is all about."

No man, and no country, is an island. In energy policy, we are heavily dependent on interconnectors bringing energy from Norway and France, if not from

[Baroness McIntosh of Pickering]
other countries too, bringing in LPG in tankers. I accept that a global crisis underlies this, Putin's invasion of Ukraine, with all the background that is in the policy paper. However, I hope that we will work closely with Europe and other countries to ensure that we do not go it completely alone in trying to work our way through this energy crisis.

There are other points that I hope this amendment can encapsulate but which I do not see in the Bill. I hope that my noble friend can put my mind at rest in this regard. First, there is a lack of focus on tidal energy. Scotland has focused very heavily and very effectively on tidal energy, as have other countries. Why are we possibly turning down the potential for tidal energy? Secondly, as my noble friend will be aware, I am a great fan of energy for waste. I am not saying that it is not there, but I do not see in the policy paper or in the Bill opportunities to have more energy from waste. At the moment in North Yorkshire, bizarrely, we are exporting a lot of our household waste to Holland, where it is burned and forms an energy source for local households. This seems a bizarre and very expensive way of getting rid of our household waste, so effectively, through energy from waste, we will be resolving two issues: how to dispose of our waste which we can no longer send to landfill because it is full and creating a strand of energy.

I make a plea to my noble friend that the energy created in this way, such as that at the energy waste plant in Allerton Park in North Yorkshire, should go to the local community. That will bring communities on side. It gets rid of one of their waste outlets—household waste—and creates a source of energy that I should like to see them being able to use.

I will mention onshore and offshore wind. It is not often stated that both these forms of energy are entirely dependent on pylons and overhead energy transmission to feed them into the national grid. My understanding is that this amounts to 30% of energy being lost in transmission, which seems hugely wasteful. If we have an energy crisis, how is it that we are creating this new energy source with either onshore or offshore wind farms and not undergrounding it—we certainly are not in the north of England—while losing 30% of our electricity through overhead line transmission?

A further plea, which I hope will be close to the heart of the noble Lord, Lord Teverson, is that we should ensure that, when we have a dash for further offshore wind farms, there will be an independent review of the damage that current and future wind farms on the scale envisaged will have on marine life. We have not yet established that, but it is deeply disturbing and could lead to loss of marine life, as well as sea mammals and birds.

To conclude, in speaking to Amendment 6, I support a great deal of what is in the Bill, but I feel that it is silent on many points and should go further in securing our energy supply, which I understood was its original focus. I hope my noble friend will put my mind at rest in this regard.

Baroness Bloomfield of Hinton Waldrist (Con): Before we continue, I remind noble Lords that the *Companion* asks noble Lords to make their speeches directly relevant to the amendments they are proposing and—please—to keep those comments as short as they possibly can. Thank you.

Lord Ravensdale (CB): My Lords, I shall speak to Amendments 7 and 242. I declare my interests as a project director working for Atkins, which is in the energy industry, and as a director of Peers for the Planet. I thank the noble Baroness, Lady Worthington, who I have worked with to develop these amendments.

Amendment 7 has similar objectives to Amendment 1 in the name of the noble Baroness, Lady Blake, and spoken to by the noble Lord, Lord Lennie. I concur with his comments on the necessity of clearly setting out the purpose of the Bill and legislating for a strategy and policy statement on its implementation. Amendment 7 brings out two specific aspects that are further detailed in Amendment 242. These are the importance of a plan for delivering against the 2035 target to decarbonise our electricity system and for the electrification of energy use in the UK.

The reason that electrification is so important stems from the second law of thermodynamics. As my favourite physicist, Richard Feynman, said in his superb analysis of the "Challenger" disaster in 1986, "Nature cannot be fooled". Whatever options we come up with for decarbonising our energy system, and whatever laws and policies we make, we run up against fundamental constraints from the laws of thermodynamics. For example, using hydrogen to fuel road transport will always be much less efficient and use far more energy than electrification, no matter what technical advances are made in hydrogen production. Similarly, using electricity to heat homes via a heat pump will always be more efficient than producing hydrogen for the same purpose. This is not to say that hydrogen production should not be pursued as a matter of urgency, as it will be vital in some areas, but its use should be focused on areas that are absolutely necessary. The efficiency gains and the reductions in primary energy use from electrification mean that this is a vital metric to consider as our energy system evolves.

The enabler of all of this is a decarbonised electricity system. We have a world-leading target to decarbonise our electricity system by 2035, but I worry about delivery. Atkins has undertaken a calculation of the rate of new capacity required to hit the 2035 target. This is not anything complex: it simply divides the capacity in the BEIS scenarios by 12 and a half years, allowing for an estimate of the capacity that will be decommissioned over that timeframe.

As I stated at Second Reading, this calculation results in a minimum of an average of 12 gigawatts of annual installed capacity being needed every year between now and 2035 to hit that target, so the next question is, with a baseline of 12 gigawatts, what have we managed in recent years? In 2019 we managed 2.8 gigawatts of new installed capacity. In 2020 we managed 1.1 gigawatts and in 2021 we managed 1.6. If we go on like this, it is very hard to see how we will meet the 2035 target. The upshot is that to replace ageing power plants and ensure that enough generation is built to meet peak demand requirements, the UK needs to build a minimum of 159 gigawatts of new generating capacity by 2035—the

equivalent of building the UK's entire electricity generation system one and a half times over in slightly more than 12 years. It is not only generating capacity but all the grid infrastructure to support it, as well as energy storage and data management.

This says to me that there is a significant risk that the Government will not be able to meet their 2035 target. I work on the coalface, as it were—I am not sure that is the best analogy. The industry has a long way to go to gear up for this pace of delivery, so alongside the 2035 target we urgently need a strategy for delivery. This reflects one of the priority recommendations from the CCC's 2022 progress report: we need a delivery plan to provide visibility and confidence for private sector investors, to reduce costs and to build up supply chains. There is a key gap here in comparison to other sectors. We have the *Heat and Buildings Strategy* and the transport decarbonisation plan, but we do not have a plan for electricity decarbonisation, despite it being so important as an enabler for those other plans. I would be grateful if the Minister could, in summing up, state that the Government will bring forward such a delivery plan for electricity system decarbonisation.

Amendment 242 details our approach to legislating for this strategy. The noble Baroness, Lady Worthington, pointed out to me that we already have a toolkit to approach this via the Energy Act 2013—the mechanism of a decarbonisation target range and decarbonisation orders. If we take these existing powers and modify them, we can set a range for carbon intensity of electricity production in the UK each year and targets for electrification of the energy system. The report must also include the expected volumes of installed capacity and energy produced by electricity energy source for each calendar year to 2035. This rigorous approach will deliver the required strategy and plan to give industry and investors a clear road map to 2035, which, lest we forget, is only slightly more than 12 years away.

There is a great opportunity in this Bill for the Government to legislate for a strategy to give industry and investors the confidence they need to reduce costs and build up supply chains for 2035, significantly reducing delivery risk, with efficiency and minimising primary energy consumption at the forefront. I strongly support the Government in their ambitions for 2035 and the target that they have set, but there is much to do in a short time, and I hope the Government will take this opportunity to ensure that there will be a clear plan for delivery to ensure the success of their ambitions.

Lord West of Spithead (Lab): My Lords, I stand to support the rather convoluted, as was stated, Amendment 5 in the name of the noble Lord, Lord Moylan. Sadly, we have shied away from a national energy strategy for some decades. As head of the National Security Forum in 2009, I pushed to produce a national energy strategy but was stopped and shot down in flames by the Cabinet Office—and indeed the Cabinet—as the Government were unwilling to identify all the various things that were needed to achieve that.

Now we are moving slowly towards a policy, but the devil is in the detail and broad, sweeping statements of commitment based on no solid evidence of cost and impact are highly dangerous. The aim of this amendment is to quantify the cost and risk of achievement and to monitor and assess performance as the plans move forward. Too often there is a willingness to move ahead hoping for the best rather than forensically analysing what is, can be and has been achieved and what the true costs are—both financial and in terms of their impact—on other policies and commitments.

I feel particularly strongly about analysing the shortfalls in electricity generated by renewable sources. Our nation has a clear demand for a constant base loading of electrical supply and needs to manage intermittency of supply from wind and solar. I am clear that only nuclear power can ensure that need in a clean way.

I will be very interested to hear the Minister's views on this requirement to monitor and quantify the measures being enacted.

4 pm

Lord Howell of Guildford (Con): My Lords, I shall speak to Amendments 1, 2, 3 and 4, as well as Amendment 5, on which my noble friend Lord Moylan made an extremely interesting speech, as were the speeches just made by the noble Lords, Lord Ravensdale and Lord West. I declare my interest in energy matters as an adviser to Mitsubishi Corporation—one of the world's largest producers of heat pumps, as well as of all connectors and the switching stations associated with them, both here and overseas—and the Kuwait Investment Office, with which the linkage, through its oil and gas production, is obvious.

I am afraid this sounds suspiciously like a Second Reading debate rather than a Committee debate. That is perhaps inevitable, given that we are in the midst of a first-class energy crisis—the biggest certainly in my active lifetime. Naturally, your Lordships are taking any opportunity—as we are entitled to do—to relate remarks on this enormous Bill to the very difficult dilemmas that the nation now faces, with no obvious way out, a cacophony of new views about what should be done, an absence of views about the international dimension, which I will mention in a moment, and a general bewilderment that, somehow or other, we will have to borrow a great deal more money to prevent real suffering, collapse and bankruptcy across a large part of the enterprise and small business sector, and so on.

I am not going to support Amendments 1, 2, 3 and 4 because they do not add much to the purposes, or indeed deficiencies, of the Bill. If they did, I would say let us support them, but that is not what they do.

I want to comment in passing on my noble friend Lord Moylan's remarks on pump storage. He mentioned the Dinorwig installation in north Wales. I had the honour and pleasure of authorising not the original installation itself but the expansion in the early 1980s. One interesting fact for your Lordships is that it was capable then of delivering within 12 minutes 2 gigawatts into the system. The remarkable fact is that it never needs to work at all to be an enormous addition to our generating system and an enormous saving. Why? It is

[Lord Howell of Guildford]
because the fact of what it can do enables the rest of the power system and all the power stations to operate at slightly higher capacities, with lower safety margins, than they otherwise would—in the knowledge that this extra is always there. So we have the extraordinary situation of a vast installation that never need actually operate to make substantial savings. That is one of the anomalies of the national energy system that we have to familiarise ourselves with.

As for the amendments—to a Bill that, frankly, does not leave me totally happy anyway—first, I am unhappy about the lack of any address in the amendments, let alone in the Bill, to the international dimension; at most, they very slightly address it. I admit there is a section on interconnectors, and that is very important. In fact, the interconnector element in our future diversity of supply is going to increase substantially; I think the Bill mentions 18 gigawatts of interconnectors. I understand that Morocco is thinking of adding an enormous 3 gigawatts of clean energy—solar energy using linked cabling from Morocco all the way to the UK—and there will be many similar sources. They all raise very complicated issues since they have to be managed under direct current, because you cannot put alternative current underwater; they have to have amazingly extensive energy transformations from direct current back to the AC that we can use inside our system.

The truth is that the resilience and security of our system is going to depend not less but more on the international environment, international supply and the sorts of issues that have been raised by the horrors of Ukraine and Russia's determination to distort to the maximum the entire energy system of western Europe—and that includes us physically. All these issues need addressing in intense detail, but I do not see that detail mobilised in the Bill.

Secondly, the amendments talk, as does the Bill, about our climate commitments. Obviously our climate commitment in law, in the Climate Change Act, is to achieve net zero by 2050, but what actually are our climate commitments? I would like to hear from the Minister what new thinking is going on in this respect. Surely the aim of our endeavours in our climate commitments is to limit global emissions and greenhouse gases. The question that we have to ask ourselves, again and again, as we struggle towards net zero, is not only whether we can afford it—and many people say it is going to cost a lot of money—but whether, when we have got there, it will have any effective impact on curbing the growth of global emissions, getting to the Paris targets and halting greenhouse gases. There seems to be an assumption that the greenhouse gases will stop at the white cliffs of Dover if we can achieve net zero. It does not work like that. I am afraid the world is integrated, in the sense that greenhouse gases are increasing very rapidly, and our efforts and contribution need to be rethought again and again in order to make a serious impact on that.

Achieving net zero by 2050 with clean power and electricity requires a multiplication by about seven or eight times of our existing clean power sector—that is, wind, solar and now of course nuclear, which is recognised by the European Union as part of the ESG group and therefore clean energy. That needs to be multiplied by six or seven times, including a vast increase in wind power and solar power, as well as in our nuclear power. That would mean several new nuclear power stations, but they are not being built and are not going to be. No one is planning on building them. We are building one now but it is in considerable difficulties. The ex-Prime Minister said in his outgoing speech that he wanted to build a lot more, but that would be 10 or 15 years away, and the chances of the system working and doing so efficiently, if it is a replication of Hinkley C, are very slight indeed.

All that is just to get to net zero. Beyond that, we must have legislation—and understanding in that legislation—to achieve a genuine contribution to climate change curbing. That is not going to be done. Adaptation is going to be needed on a massive scale to prevent really bad heat in summer, really cold winters and enormous flooding that will affect us as well as many others. That is the element that is not in the Bill, and the amendments would not add very much to it.

As to minimising costs, which the amendment mentions—it is also mentioned in the Bill itself and in the explanatory documents for it—how is this to be done? We will not minimise costs by trying to build, very rapidly, these enormously expensive new, large-scale nuclear stations. We will not minimise costs unless we remain totally integrated into the world energy supply system or unless we deal, day by day, on a sensitive basis, with our Norwegian suppliers of natural gas and electricity. If we take our mind off that for a moment, that gas will probably go elsewhere, as is happening now as Germany tries to fill up its strategic gas storage tanks, as are many other countries. All this is creating not stability, resilience or security but the opposite.

I therefore ask the Minister that when he turns down this amendment, as he no doubt will—he is quite right to do so, because it is unnecessary and adds nothing—he gives us a little assurance that in this new and changing situation, this long-term future which we have to build on and in which, by failing to build on that of 40 years ago, we have now plunged ourselves into this terrible crisis, these things are being addressed and will be taken account of. Perhaps as we go through the Bill clause by clause, we will hear something from him about how the new situation is to be addressed. I do not think this amendment does it; nor, frankly, does the Bill.

Viscount Trenchard (Con): My Lords, I must declare my interest as a member of the advisory board of Penultimate Power UK Ltd. By the Government's own admission, the Bill introduces 26 separate measures, based roughly on three pillars, which aim to give the Bill a modicum of coherence. Many of the amendments in this group, however, seem also to be intended to serve as a kind of preamble to the Bill, which, as my noble friend Lord Moylan and others have said, would improve it.

Amendment 1, as eloquently spoken to by the noble Lord, Lord Lennie, seeks to add a principal purpose to the Bill. Amendment 7, spoken to by the noble Lord, Lord Ravensdale, aims to do the same thing. However, these amendments would add not one principal purpose but three. Furthermore, I consider

that principal purposes (a) and (b) in Amendment 1 are in conflict with each other, in the sense that while delivery of the country's climate change commitments is obviously highly desirable, it conflicts with purpose (a) in that resilience and reliability are not served, at least in the short term, by abandoning natural gas as a source of energy with unnecessary haste. Actually, purpose (b) is also in conflict with purpose (c), because it is hard to argue that maintenance of the climate levy helps to minimise costs to consumers or protects them from unfair pricing.

I therefore urge my noble friend the Minister not to accept this amendment, or indeed Amendments 2, 3 and 4 in this group in the names of the noble Baroness, Lady Blake of Leeds, and the noble Lord, Lord Lennie. I understand why they want to introduce a requirement for a strategy and policy statement in line with the Bill, but I regret that the Bill does not cover the whole of the country's energy strategy or policy. Furthermore, these amendments give a higher priority to meeting climate change commitments than they do to developing reliable sources of energy, which protect the consumer against the risks of intermittency.

That is why I support Amendment 5 in the name of my noble friends Lord Moylan and Lord Frost, and the noble Lord, Lord West of Spithead. This amendment recognises that the Government must have regard to the *Ten Point Plan for a Green Industrial Revolution*, the *Net Zero Strategy*, the *British Energy Security Strategy* and all the other strategies; but that, crucially, they need to compensate for the huge reliance on wind and solar energy contained in those strategies by ensuring that we will have electric power to replace that generated by renewable sources, which are subject to intermittency.

As my noble friend Lord Moylan pointed out, it is necessary for the Government and the public to understand how much achieving the objectives of net zero by 2050 will actually cost. The Government have been, and continue to be, far too cautious in their policy towards nuclear power, but Amendment 5 will require the Government to support nuclear to a far greater extent than they have done so far, because nuclear is completely reliable and not subject to intermittency. One of the points in the 10-point plan covers the delivery of new and advanced nuclear power, while the subsequently published strategies increasingly recognise its greater importance.

Much has been made of the Prime Minister's commitment in May that we will build one new nuclear power station every year, instead of one every decade. But he did not clarify whether he was talking about a new power station such as Hinkley Point C, with two large reactors each generating 1.6 gigawatts of electricity, or perhaps a bank of NuScale reactors, producing 77 megawatts, or of U-Battery reactors delivering 4 megawatts each. Could the Minister clarify how much new nuclear capacity the Government expect to commission every decade or year?

4.15 pm

Could the Minister also confirm that the Government recognise that the only way to achieve energy security without watering down our net-zero commitments is to accelerate significantly programmes for the development of both SMRs and AMRs, which have been and still are considered—illogically—different technology sectors? The acceptance of Amendment 5 or a similar amendment would make it more likely that the necessary strategic policy changes could be made.

I am also inclined to support Amendment 6, in the name of my noble friend Lady McIntosh, to establish one "principal objective": energy security. On Amendment 231, eloquently spoken to by my noble friend Lord Moylan, it is interesting to seek to distinguish and separate carbon and non-carbon sources of electricity and the pricing mechanisms of those two subsectors. I would like to know what the Minister thinks about that and the other amendments in this group.

Baroness Worthington (CB): My Lords, I will speak to Amendment 7, to which I have added my name. I declare my interest as a co-chair of Peers for the Planet. I apologise for not being present at Second Reading; I wrote to the Minister, and I am grateful for his detailed response to some of my points. I will endeavour to be brief, as this is Committee, and will simply explain why we consider that Amendments 7 and 242, together, bridge the divide that is evident between the two sides of the House, as witnessed in this debate.

The noble Lord, Lord Moylan, was absolutely right that you cannot simply declare that you want to win a war; you need to have tactics and a strategy for winning it. Our Amendment 7, complemented by Amendment 242, provides that strategy, which is, as the noble Lord, Lord Ravensdale, eloquently articulated, fundamentally underpinned by physics. Energy is a question of physics and, if we understand that, we will know that we are not struggling towards net zero but in fact doing very well on that path.

The clarity with which I now see industry communicating on this issue is far greater than it has been over the last decade. It is saying: "Electrify everything that can be electrified and use our abundant resources of clean electricity to decarbonise." That is how you square the three principal objectives of energy policy: affordability, cleanliness, and resilience and security. That pathway is so clear now that the Bill could be hugely enhanced by having this set out at the front.

I support the Government's intentions. They seek to address the trilemma of those three objectives, which are fundamental to winning this war against climate change and against the energy crisis that we currently face. That very energy crisis is an interesting reason why we are powering towards net zero faster than ever before: it is absolutely clear that the volatility of gas and oil underpins it, and we cannot forget that. What is the Government's current policy? It is to reduce our reliance on those volatile commodities, which would serve everyone's needs: it would help us reduce bills and would give the consumer a reliable source of energy.

The Bill has many measures which we will come on to debate that will help us along that path. But it lacks an overarching statement of objective. We now need to revisit the debates we had on the Energy Act 2013 about the need for a decarbonisation target to provide

[Baroness Worthington]
clarity over this direction of travel. We all sat there—many noble Lords here today were there—and had debates on why knowing our way towards that target was needed for investor and stakeholder confidence. It is now very clear that it is needed because, as the noble Lord, Lord Ravensdale, pointed out, simple mathematics shows that we still have a lot of technology that needs to be put into place to become operational, and we need a plan that monitors progress towards that.

Subsequently, we have added an extra dimension to this: electrification. As I said, physics tells us that electrification is fundamentally more efficient; you will get six to seven times more usable energy from an electricity-based system than if you rely on fossil fuels or hydrogen. Six to seven times fewer wind turbines will be needed to provide the same benefit in terms of heat or transport. That should be of interest to everybody; it saves costs and helps make the system more secure.

So I hope that the Minister will look at our amendment carefully. It adds an extra dimension to this Bill, which will give it so much clarity so that everybody will have a clear sense of the path that we are on. As I have said, the UK should be very proud of the efforts it has taken to date. We are not as exposed to the energy crisis as other countries, because of investments we have made over the last two decades and because we have taken seriously this objective of making our system more resilient and fit for the future. There is an international dimension—I am sure we will come on to talk about this in other parts of the Bill—but it is absolutely clear that the thing that we can do best at the moment is continue on the path of decarbonising our electricity system using technologies that locate cheap power on our shores, to rid ourselves of the insecurity and volatility of gas prices and to move forward to an efficient system that converts primary energy into heat, transport and work. If we can do that, we will show the world how it should be done: do not pick winners but instead create a system that is sensible and will provide the right guardrails for capital investment so that money will flow and we will all benefit. I look forward to the Minister's response to our amendment.

Lord Teverson (LD): My Lords, it is always a great pleasure to follow the noble Baroness, Lady Worthington, and although we do not always agree on absolutely everything, I reckon that I agree with about 99.5% of her speech.

First, I declare my interest as chair and director of Aldustria Ltd, an energy storage company; I will try to avoid too much discussion of that area. On these amendments, I very much thank the noble Lord, Lord Lennie, for having opened our debate today. I very much agree with the principle of what the Opposition Front Bench is trying to achieve here. What this Bill does not have—the noble Lord, Lord Moylan, put it very well indeed—is great focus or coherence. It would be good to start trying to improve that through a type of preamble that puts context, including strategic context, at the beginning of the Bill. I hope that we can refine that more on Report; it may not be perfect, but perhaps we can find a way of doing that between us.

I also agree with the noble Lord, Lord Moylan, about the pricing of electricity and how that works. As he says, our European colleagues are looking at that very strongly now. There must be a better way of doing this; it cannot make sense to the public that we charge and price our main energy sources on the marginal cost of the last producer. Clearly, that does not make sense, and it does not do the reputation of the fossil fuel industry any good either. Yes, they might use their money to give back to shareholders—hopefully they will use it for different types of investment and diversification—but it besmirches the whole sector, and we need to find a way around that.

Where I would disagree very strongly with the noble Lord, Lord Moylan, is around trying to game or look at alternative dates for net zero. It seems to me that in September 1939 the Cabinet probably did not look at whether to declare war on Germany this month or two years later or four years later. We may criticise Neville Chamberlain for all sorts of things in retrospect, but I guess that is not one of them. It was an absolute threat to our future security, and we made a decision. If we think of the costs to this country, and to us and consumers, of our right stand on Ukraine, I guess that we have not done those calculations either—because we know that Putin's war has to fail and that, for European security and our long-term security, we in the western world need to pursue the tactics that we have.

I thank the noble Baroness, Lady McIntosh of Pickering, for her amendments, particularly in mentioning rural aspects of oil—my own household is on oil, and we are not covered by a price cap—and in particular business. In all the media coverage that we have had on this very real energy crisis over the past months, it is funny how business has very much taken second place to households and consumers. Clearly, households and consumers are ultimately the most important, but business is completely fundamental to our economic performance and being able to solve this crisis in the long term.

I am not absolutely sure about energy from waste plants. Clearly, it does not make sense to export it, but the real challenge there is in starting to raise recycling again, or even AD in terms of other parts of household waste. I was so impressed by the forensic look by the noble Lord, Lord Ravensdale, at investment need and the scale of the challenge, and also at how we need to measure that and put proper planning into how we meet it.

The one other area that I would like to mention comes back to 2013 and the then Energy Bill, mentioned by the noble Baroness, Lady Worthington. At that time, one big thing that we discussed was the energy trilemma of security, cost and decarbonisation. The noble Viscount, Lord Trenchard, brought that back up again. But what this crisis, and the almost a decade between these two Bills, has shown, is that it is no longer a trilemma—they all work in exactly the same direction. Renewables are now cheaper than fossil fuels, as we know—it is why we have the huge price increases that we do. Our security is reinforced by having much more renewable generation

on our own seas and our own land—and, as a result, we have lower costs and a decarbonised energy system as well. We have moved on since that time.

We need to have a focus in this Bill, and I support the amendments. We need to move on in this debate, but I am absolutely sure that we will need that coherence when we get to Report.

Baroness Jones of Moulsecoomb (GP): My Lords, the whip, the noble Baroness, Lady Bloomfield, has spoiled a lot of my fun today, because I was going to tell the Government exactly what they needed to do if they were going to produce an Energy Bill that deals with the crises that we are facing. We are facing three immense crises at the moment, and one of them is, of course, the climate crisis. There are strong whiffs of climate denialism in your Lordships' House, which I find absolutely staggering, considering that the science is so very clear on it. However, it is a bit last century, that sort of attitude, so I understand why it might exist here in your Lordships' House. But we have those crises—the climate emergency, the ecological crisis and the cost of living crisis—and this Energy Bill is so topical. It is exactly the sort of thing that we need to bring forward so that we can deal with all these crises, and I guess make life better for millions of people in Britain and the rest of the world.

I agree with a lot of what the noble Lord, Lord Howell, said. He made the point that this does not do the job. Also, I am very sympathetic to Labour's initial amendments. I understand why they are in there, but it reads a lot more like the sort of issues that a Labour Government would bring forward—hopefully not too long in the future.

I am concerned that our time is going to be wasted on this Bill, because we have a new Prime Minister—a climate-wrecking ideologue who will make it incredibly difficult for us to get the sort of issues into this Bill that we need. The noble Lord, Lord Howell, and other noble Lords also mentioned nuclear. We have to get real on the fact that nuclear is not the answer. Nuclear power stations take a long time to come online. There will be all sorts of problems even getting them started, so they are not the answer. We have to think faster than that; they just will not work.

4.30 pm

I am sympathetic to the early amendments. Amendment 5 is a bit of a right-wing, net-zero-wrecking amendment, so I definitely would not support it. Amendment 6 from the noble Baroness, Lady McIntosh, is also a bit of a wrecking amendment in terms of the climate goals, so I definitely would not support that. Interestingly, Amendment 231 in the name of the noble Lord, Lord Moylan, would be a very good idea because, as the noble Lord, Lord Teverson, just said, it is ridiculous that people who have installed solar power, for example, and have renewable sources for their own electricity end up paying the top rate like everybody else. Those people have cheaper electricity. We should split the renewable electricity market from the fossil fuel-based electricity market—it is absurd that they have been bundled together—because renewable is so cheap and abundant. I would therefore probably support that sort of amendment if it came up later.

I am sceptical about whether this Bill will even get through. It could easily be overturned—it might not even get past this week, of course—but we must seize the opportunity to fix a broken system. We are living through a market failure. It will destroy the lives of millions of people, push more people into poverty and make life harder. If the Government cannot get a grip of the issue, they will deserve to be out of power for a generation.

Baroness Hayman (CB): My Lords, I declare my interest as co-chair of Peers for the Planet. I will speak very briefly to the amendments. I have amendments of my own later in the Bill on energy demand reduction and the regulator's responsibilities.

I support the amendments in the name of the noble Lord, Lord Ravensdale. It is important that this Bill is specific about the implementation of the aspirations that we hear from government. We have not had enough detail about the plans to implement the strategies, and we have not had enough detail in the strategy. For that reason, I have some sympathy with the amendment of the noble Lord, Lord Moylan. He raises important issues about putting flesh on the bones of the aspirations, but I disagree with him about changing the timetable. I also disagree with the noble Viscount, Lord Trenchard, on the question of whether, because our contribution to global emissions is low, we should go ahead with the contribution we can make in innovation and leadership, which completely ratchets up the effect of this country's own policies on a global scale.

One serious point I want to make about the noble Lord's amendment is that I am extremely worried about the suggestion that the Secretary of State should commission and publish "an independent assessment" of the costs, the implementation dates and the risks of the net zero strategy. We have the Climate Change Committee, which is admired for its work throughout the world. It is an important and respected body and it is independent of government. It would be ridiculous to try to get different independent advice: if we go down that road, we are in "anyone's view is the best view" territory. We have an independent adviser for government. We have the Office for Budget Responsibility; we have lots of people who can comment on the advice it gives, but it would be quite wrong to put in this legislation anything that undermined its position.

The Parliamentary Under-Secretary of State, Department for Business, Energy and Industrial Strategy (Lord Callanan) (Con): Let me say first what a pleasure it is to open for the Government in today's discussions: I am sure we will have lots more as we go through the Bill. I thank the noble Lords, Lord Lennie, Lord Ravensdale and Lord West, the noble Baronesses, Lady Blake and Lady Worthington, and my noble friends Lord Frost, Lord Moylan and Lady McIntosh, for their amendments, which seek to address the purpose and strategic aims of the Bill and of course the Government's energy policy more generally. That allowed us to have a debate with more of the flavour of a Second Reading debate, rather than addressing the specifics of the Bill, but that is understandable given the nature of the amendments.

[Lord Callanan]

I turn first to Amendments 1, 6 and 7 from the noble Lords, Lord Lennie and Lord Ravensdale, the noble Baronesses, Lady Blake and Lady Worthington, and my noble friend Lady McIntosh. These amendments all seek to address the fundamental purpose of the Bill. While they are well-intentioned, it is my strong contention that these amendments are not necessary as the Bill already has a clear purpose. Provisions in the Bill as drafted not only have regard to the outcomes those noble Lords seek, but they are actually designed with those outcomes in mind. For example, a number of measures in the Bill will contribute to the resilience of the UK's energy system—most obviously, those powers related to the ensuring the security of the core fuel sector. I am happy to give the assurance that my noble friend Lady McIntosh sought today: that energy security is of paramount importance to this Government.

Amendment 245 would give effect to Clause 1 once the Act is passed and, for the reasons I described, I do not believe that it is necessary. On Amendment 5, from my noble friends Lord Moylan and Lord Frost, and the noble Lord, Lord West of Spithead, relating to energy strategy statements, I reassure them that the Energy Bill is to a significant extent an expression of the Government's strategic intent as set out in the 10-point plan, the energy White Paper, the net-zero strategy and the various sector-specific policy papers we have published. Furthermore, government policy evolves over time and strategies do not always neatly replace others. Some aspects may remain government policy, and some are updated in response to a changing landscape—of course, we have seen that very recently with the Ukrainian invasion. I submit that, rather than prescribing policy intent in primary legislation, it makes more sense to allow Ministers to exercise discretion in these matters and respond to a changing policy environment and international environment.

I move on to the requirement to publish a strategy

"for managing intermittency of electricity supply".

Intermittency is an important issue, but the National Grid Electricity System Operator is responsible for balancing electricity supply and demand, because while production is intermittent, so is demand. The Government remain confident that they have all the tools needed to operate the electricity system reliably. We can call on a wide range of technology types to do this, some of which were mentioned in the debate today, including emergency gas-fired generation, interconnectors and, crucially, demand-side responses such as insulation, retrofit measures, et cetera.

The capacity market is the Government's main mechanism for ensuring the security of electricity supply. It has done a great job and we have already secured the majority of Great Britain's capacity needs to meet future peak electricity demand out to 2025-26. The Government have also committed to ensuring a flexible system which involves the use of a wide range of technologies—again, a number of them were mentioned in the debate today—including battery storage and pumped storage, which I was really interested to hear my noble friend Lord Howell talk about. In my electrical engineering degree many years ago, we studied that particular development; for those who have not been able to see it, it is an incredible feat of engineering.

This amendment also has a requirement to commission assessments of the 10-point plan and of the costs of achieving net zero. My noble friend Lord Moylan raised concerns that progressing towards net zero is a "constraint" to achieving affordable and abundant energy in the UK. I reassure him that, as we transform the energy system, the Government are committed to pursuing the most cost-effective solutions, which, at the moment, are offshore and onshore wind. Ensuring security of supply and decarbonisation, and affordability to the consumer and the Exchequer, are of critical importance. While there will be costs, the costs of inaction in this sector, as we have seen through the invasion of Ukraine, are much greater. Had we not acted over the last decade or so to secure the second-largest supply of offshore wind in the world, the costs we would be facing now would be much greater and our security of supply would be at much greater peril.

As set out in the *Net Zero Strategy*, we estimate that the net cost to achieving net zero, excluding air quality and emissions-savings benefits, will be the equivalent of 1% to 2% of GDP in 2050. That strategy was informed by the Treasury's 2021 *Net Zero Review*, which looked at the potential costs and benefits to businesses and consumers of the transition to a net-zero economy.

Furthermore, several mechanisms already exist to analyse the path towards net zero, as mentioned by my noble friend. For example, the Government's approach to net zero is already subject to independent scrutiny by the Climate Change Committee, whose 2022 progress report included an analysis of the economic impact of decarbonisation. Much of this work already takes place.

I turn to Amendments 2, 3 and 4, tabled by the noble Baroness, Lady Blake, and the noble Lord, Lord Lennie. The Energy Act 2013 introduced the power for the designation of a strategy and policy statement that sets out the Government's strategic priorities for energy policy, the roles and responsibilities of those implementing such a policy and the policy outcomes to be achieved. The Government have committed to laying a strategy and policy statement for energy policy later this year and a statement at the earliest appropriate time. Designation of a strategy and policy statement will ultimately be a decision for Parliament, not the Secretary of State. Therefore, I submit that these amendments are duplicative and unnecessary.

I thank my noble friend Lord Moylan for submitting Amendment 231. He raises an important point; splitting the wholesale market into two—namely, creating one market for variable renewables and another for firm generation—is already being considered as part of the review of electricity market arrangements, or REMA. An initial consultation, which included exactly this proposal, was published in July. Splitting the market is one of many options being considered within REMA. My department is currently assessing the viability of implementing a split market and the potential costs and benefits associated with doing so.

Based on stakeholder responses to the consultation and based on further policy developments, we will publish a second consultation in 2023 to set out any feasible options in more detail. Legislative proposals

on how to implement recommended reforms will then follow. Adding a clause into the Bill that commits the Secretary of State to publishing legislative proposals on splitting the market by a specific point in time would, I submit, prejudge the outcomes of both the consultation and the review.

4.45 pm

Lord Moylan (Con): My Lords, did I hear my noble friend say 2023? Did I hear that correctly?

Lord Callanan (Con): Yes, it is a complicated area that requires proper and detailed policy analysis, but that work is under way, and we will do so.

Splitting the wholesale market would a necessitate a fundamental and irreversible design of our electricity market arrangements, and without the appropriate consideration of the potential costs and any potential benefits and without sufficient stakeholder input, it could well lead to higher bills for consumers, and it would create an investment hiatus which would jeopardise our ambitions for decarbonising the power sector by 2035—which is exactly the point I was making to my noble friend. So, this is an important issue, but it is one that needs to be looked at thoroughly, properly and professionally. I hope that my noble friend is assured that the issue is being closely examined and will therefore feel able to withdraw his amendment.

Baroness Worthington (CB): My Lords, would the Minister care to comment on the fact that—and this has been mooted as a potential solution in the short term during these unprecedented times where we see such high prices and so many people suffering—there is surely a logic to take a power now, to use it in extremis and then to continue with the longer-term conversation? I think the nation wants to see some action quite quickly and we have an Energy Bill.

Lord Callanan (Con): I do not think it is important to do that at this stage; we have published the consultation, we are closely analysing responses, as the noble Baroness will understand. It is a difficult area, it is a complicated area, there are a number of potential ramifications, and we think it is worthy of consideration. If we took a power now, that might have a very destabilising effect on the market and on the amount of investment that is flowing into many of the sectors, so the Government's position at the moment is that we do not think that is necessary or desirable.

I reassure noble Lords that the addition of electrification to the Energy Bill is also unnecessary. The net-zero strategy sets out the Government's view on how electrification can enable cost-effective decarbonisation in transport, in heating and in industry—to that extent, I agree with the noble Baroness, Lady Worthington, and the points that she made—along with our approach to deliver reliable, affordable and low-carbon power. The energy security strategy accelerated, as I am sure the noble Baroness is aware, our ambitions for the deployment of renewables for nuclear and for hydrogen. I can assure noble Lords that the Government will never compromise our security of supply: that remains our primary consideration. But our understanding of what the future energy system will look like and the level of the demand that we will need to meet through electrification will essentially and inevitably evolve over time. So, we are not targeting a particular solution, but we rely on competition to spur investment in the different technologies and new ways of working, and new technologies such as more efficient batteries et cetera are coming onstream every day. We will closely take all these matters under consideration. We take the view that the Government's role is to ensure the market framework is there and that encourages effective competition and, at the same time, delivers a secure and reliable system.

Finally, let me thank the noble Lords, Lord Howell and Lord Teverson, the noble Viscount, Lord Trenchard, and the noble Baronesses, Lady Jones and Lady Hayman, for their valuable contributions to the debate. I assure my noble friend Lord Howell that we are working internationally with the US, with the EU and with our other partners to produce a secure and reliable energy system together. In response to the noble Viscount, Lord Trenchard, I am sure he will be pleased to hear that through the £385 million advanced nuclear funds, we are providing funding to support research and development for precisely the small modular reactor designs that the noble Viscount wishes to see, and we are progressing plans to build an advanced modular reactor demonstration by the early 2030s at the latest. Therefore, with the reassurances that I have been able to provide, I hope that noble Lords will not press their amendments.

Lord Lennie (Lab): My Lords, first, I apologise for not thanking the Minister for meeting us earlier today; that was helpful. To answer one or two points, the noble Viscount, Lord Trenchard, asked about what Boris Johnson said when he was Prime Minister—up to yesterday, or today. He raised questions about power stations being built and the figure of one a year for however many years necessary, and not being sure what power stations there were. The PM was never really good on detail and I think this proves that point. That does require some clarification.

The bigger point raised by the noble Lord, Lord Howell, and the Minister was in relation to the preambles. They asked: why these preambles? They are a combination, if you like, of the preambles to the climate change and sustainability Act and the Energy Act 2013, as the Minister pointed out. They seek to give some definition, some guidance, to what the Bill is intended to achieve, as opposed to its rather rambling, ongoing, imprecise nature. It is not so much that the Bill is objectionable; it is just not adequate to achieve what it intends.

We will look at this before Report. With those few comments, I beg leave to withdraw my amendment.

Amendment 1 withdrawn.

Amendments 2 to 7 not moved.

Clause 1: Principal objectives and general duties of Secretary of State and economic regulator

Amendment 8

Moved by ***Lord Foulkes of Cumnock***

8: Clause 1, page 2, line 2, leave out second "may" and insert "are or are likely to"

Member's explanatory statement

This amendment requires there to be an actual impact or likelihood of an impact on the consumers whose interests are being protected, whilst retaining discretion for the Secretary of State and the economic regulator to exercise their judgement. This would enable Ofgem to better justify and evidence decisions enabling strategic anticipatory investment.

Lord Foulkes of Cumnock (Lab Co-op): My Lords, it is my responsibility and pleasure to move Amendment 8 and to speak to Amendments 9, 14 and 16 in the unavoidable absence of the noble Baroness, Lady Liddell, who will be with us from Wednesday onwards. She sends her apologies but I am pleased to speak on her behalf, and my own, and to thank the Carbon Capture and Storage Association for its excellent briefing about this issue and the implications involved and the help it has given us with drafting these amendments.

I have two points before I go on to the detail of the amendments. As others have said, the UK has one of the largest potential carbon dioxide storage capacities in Europe. This is a very important issue that we are dealing with today, and it should not be underplayed and underestimated. It extends throughout the whole United Kingdom—Scotland, England, Wales and Northern Ireland. Also, as I understand it, it will support 50,000 jobs—a not insignificant number, given the current situation.

Turning first to Amendments 8 and 9, these deal with the importance of a net-zero principal duty to enable rapid network expansion. If we in the UK are to meet our emission reduction targets, carbon capture and storage will need to be rolled out rapidly across the UK during the rest of this decade. To capture and store 30 million tonnes a year by 2030, as the *Net Zero Strategy* says, we will need to go from nothing to building significant CO_2 infrastructure in a short space of time. It is therefore vital that the regime set out in the Bill enables initial oversizing of CO_2 pipelines, increasing their size, which will allow for the subsequent rapid network expansion to connect more capture sites to the growing suite of storage sites.

The National Infrastructure Commission's 2019 regulation review, *Strategic Investment and Public Confidence*, recommended that the economic regulators' duties be updated to facilitate long-term investment in networks. It recommended implementing updated duties that will enable network operators to deliver the best results for the public by building and investing in networks that are resilient and fit to deliver net zero while also providing value to current and future users of those networks.

The Government should be commended—it is unusual for me to commend them—for proposing that the duties of the economic regulators include consideration of the needs of existing and future users, but this seems a missed opportunity to include a duty to deliver net zero by 2050, to help the regulators to effectively balance these two equally important factors.

It should be noted, however, that outside the regulators' core duties, the Bill includes a further requirement for the regulator to support the Secretary of State in having regard to the Climate Change Act 2008, and the new CCUS strategy and policy statement should go some way to addressing this. However, in practice, these mechanisms are not as strong as the regulators' own duties.

This amendment is therefore essential to give the regulator the necessary powers to make decisions that enable the required strategic anticipatory investment on the network. Ofgem will need to be empowered to make well-justified decisions that balance the interests of current and future transport and storage network users with delivering net zero.

That deals with Amendments 8 and 9. I now come to Amendments 14 and 16, which would ensure that all types of permanent storage are included. Of course, geological storage is not the only type of permanent storage of CO_2. This can also be achieved by types of usage where the carbon dioxide is used in a way that it is chemically bound in a product and not intended to re-enter the atmosphere. As currently written, this clause allows only for geological storage, so this amendment is intended to recognise that there are other methods of permanent storage. However, it is important to qualify in this drafting that only carbon capture and usage where it is intended to be permanent—and therefore subject to monitoring and verification—can qualify for this.

It is worth noting that in other areas of the Bill a wider definition of storage is used, and the question could be asked: why are there different definitions for each clause of the Bill? Perhaps the Minister could explain that in his reply. This amendment aligns with Clause 63(8), where the Bill defines "storage" as

"any storage with a view to the permanent containment of carbon dioxide."

Would it therefore be possible to have a common definition of storage used throughout the Bill?

I hope that the Minister will give a positive response to these amendments and I beg to move.

Baroness Worthington (CB): My Lords, I will speak very briefly in support of Amendment 14 and reiterate the question of why there may be inconsistent definitions of storage in the Bill.

In my time exploring carbon capture and storage over the years, I have become somewhat cynical about its ability to scale. The sheer cost of it and the presence of alternatives that may be cheaper and more secure mean that its role will be relatively limited. I am sure that it will play a role, but only if we enable it to be pursued in its widest possible senses. It is absolutely the case that you can store large volumes of carbon dioxide underground; we have aquifers and other underground storage facilities that could be used for this, including in the North Sea and on land, and we should explore those where they make sense. However, there are other mechanisms through which you can enable the use of other stored forms of carbon. Novel techniques are coming to market now involving plasma torches, which, applied to natural gas streams, deliver pure streams of hydrogen plus black carbon. That black carbon can then be used as a manufacturing commodity. Therefore, it would be foolish of us not to include that as a potential option. Similarly, CO_2 is used as a binding agent in the production of building materials. In fact, currently the CO_2 has to be bought

at an extortionate rate, so using pure waste streams of CO_2 for the production of building materials will again be a permanent form of storage and it should be supported in the Bill. I fully support this amendment.

Baroness Bennett of Manor Castle (GP): My Lords, I want briefly to reinforce the comments that have already been made. I wish to speak particularly in favour of Amendment 9, on the duty to assist in delivering net zero, and to Amendments 14, 15, 16 and 19; as has been argued clearly, having a consistent definition of storage throughout the Bill makes total sense.

Like the noble Baroness, Lady Worthington, I am very sceptical about the claims made about carbon capture and storage. Often, we see it used as a "get out of jail free" card: "We've got all the numbers and they don't add up. We'll just throw in a figure for carbon capture and storage to allow us to continue as we are". That is clearly unviable. None the less, it makes a lot of sense to grab carbon emissions wherever they occur and use them in a constructive way.

5 pm

The noble Baroness, Lady Worthington, referred to the construction industry. Are we specific about that when looking at mineral carbonation? There is already at least one company that makes the reasonable claim—perhaps still to be fully attested—to be a carbon capture and storage producer of cement blocks, using a process of mineral carbonation that combines waste slag from the steel industry with carbon from industrial plants. We need to leave these possibilities open and ensure that they are encouraged, to make sure that a company that develops such a plan does not then run into a block of legislation that stops it being able to deliver because it would then be left in a difficult commercial situation.

Lord Teverson (LD): My Lords, I wish to speak to my Amendment 10. First, let me say that I very much agree with the drift of the debate so far, in that carbon capture, usage and storage has got a lot more real in the past few years—I give the Government credit as well—in terms of clusters and using carbon capture, primarily for industrial processes. What we should not be using it for is gas power stations that are CS-ready and which through carbon capture become much less efficient in their energy production. Clearly, we should be substituting gas and not using it in that way. The same absolutely goes for usage, where possible. I am sure that a lot of fizzy drinks and other such things use it as well.

In my Amendment 10, I am concerned that there should be in the Bill a duty for the Secretary of State. We should have transparency in the sector. What we are trying to do here is stop cross-subsidy between networks and network users. In many ways, this is a probing amendment. I would be interested to hear the Minister's reaction on how we can keep these networks and markets transparent so that we can assess users, sectors and networks in their own right and avoid transfer charging or subsidy from one to the other without understanding whether there is a case for it.

Lord Hutton of Furness (Lab): My Lords, I want briefly to speak in support of my noble friends' Amendments 8 and 9, which touch on some important issues that we ought to debate in this House.

To their credit, the Government have brought forward legislation that imposes significant duties on the Secretary of State and the economic regulator. I am sure that we all welcome those duties. However, when it comes to parts of the Bill that create general overriding obligations and purposes, it is important for the legislation to be drafted correctly and coherently, otherwise we create a rod for our own backs—not just for this Government but for future Governments as well. There is always a general case to be made for as much clarity as possible around how those duties and responsibilities are defined. My noble friends' amendments will certainly help to do that.

I have a specific point to raise with the Minister, and I hope that he will be in a position to respond to it. Having looked at Clause 1 as a whole, the provisions that concern me the most are those in Clause 1(3). One of the duties that we are imposing on the Secretary of State and the regulator is to promote at all times a culture of competition between providers in this sector.

I want to raise a concern with the Minister. Carbon capture, storage and utilisation are huge process engineering challenges for British industry to rise to. I welcome very much the direction of travel that the Government have set out for testing and developing business models for CCUS projects; it is an incredibly important step. My only concern is that, although I am generally a very strong supporter of competition in markets, we can take that ideology too far and apply it in a context which probably will not secure the objectives that we have in mind. Over the next few years, I want to see a mobilisation of British industry, particularly the engineering companies in this country, so that they can come together and work on these projects. It will take that sort of collaborative approach, rather than an approach based purely on competition. If we can pursue that path, it will deliver more of a result over a shorter period than pursuing a purely orthodox, competition-based approach would.

I know that there is no specific amendment tabled to Clause 1(3) today, but I want to put a marker down because this is a general issue of principle. The question is simply this: how are we best placed to mobilise all of the amazing engineering resources that we will need in this country to meet our carbon capture, utilisation and storage targets if it is to be driven purely by competition as opposed to collaboration? If we pursue purely the competitive approach, I suspect that quite a lot of the jobs that the Government have talked about in the Explanatory Memorandum will not come to UK companies; they will go to Finland, Poland, Germany and other countries that are slightly further ahead of us in developing and applying some of the technologies that we will need. There is a general issue here that needs to be raised.

I should have declared an interest at the beginning of my remarks. I am the chairman of Energy UK, which represents the energy companies in the UK, and of Make UK, which represents all the engineering companies.

Lord Lennie (Lab): My Lords, Amendments 11,12 and 13 in my name would all strengthen the relationship between Ministers and the economic regulator by insisting that the Secretary of State and the economic regulator are bound by the listed regulatory principles and the need to contribute to achieving sustainable development rather than just having regard to them. Further, they would oblige a Minister to be bound by their duties as a Minister, as opposed to just having regard for them. They would also require the economic regulator to be bound by the need to assist the Secretary of State, compliant with its duties and targets. It is not sufficient to have regard to these matters; it is important to be bound by them. Can the Minister say what "have regard to" means if not to be bound by them?

Amendments 15 and 16 espouse that the Bill does not specifically include carbon capture usage. To add to the example given by the noble Baroness, Lady Worthington, in January 2021, the major US oil company Chevron announced that it had made investments in the San Jose-based corporation Blue Planet Systems—then a start-up—which manufactures and develops carbon aggregates and carbon capture technology intended to reduce the carbon intensity of industrial operations. Blue Planet Systems manufactures carbon-based building aggregate from flue-gas-captured CO_2. These amendments aim to encourage the use of captured carbon as opposed to its storage.

Lord Callanan (Con): My Lords, I thank everyone who has contributed to this short debate. Addressing the amendments in turn, I will start with Amendment 8, tabled by the noble Baroness, Lady Liddell, and my old friend the noble Lord, Lord Foulkes, who is very conciliatory today—I am suspicious; something has happened to him over the summer, but I am sure that we will get the old noble Lord, Lord Foulkes, back before we get much further into the debate.

This amendment seeks to amend the principal objective applying to the Secretary of State and the Gas and Electricity Markets Authority in respect of consumer protections. Under the current drafting of this principal objective, it is for the Secretary of State or the economic regulator to protect the interests of consumers who they consider may be affected by regulatory decisions. This drafting is intended to ensure that the economic regulator and Secretary of State have discretion as to the consumer impacts that are taken into account. While the noble Lord's and the noble Baroness's amendment is intended to ensure that only actual or likely impacts are taken into account, we consider that the existing drafting already provides for this. Therefore, I submit that the amendment is unnecessary.

I turn next to Amendment 9, which is also in the name of the noble Baroness, Lady Liddell, and the noble Lord, Lord Foulkes, joined on this occasion by the noble Baroness, Lady Bennett. The amendment as drafted would place an additional principal objective on the Secretary of State and the economic regulator to assist in the delivery of the net-zero objective. I know that we have had this discussion on a number of Bills, but I will reiterate that, under the Climate Change Act 2008, the Secretary of State is already bound by law to ensure that the targets to reduce greenhouse gas emissions are met.

Under Clause 1(6), the economic regulator is required to have regard to the need to assist the Secretary of State in complying with his duties to achieve carbon emissions reduction targets and to have regard to these targets in each of the devolved Administrations. I therefore submit that the economic regulator is already required to take these net-zero targets into account in its regulatory determinations.

Next, I turn to Amendment 10, proposed by the noble Lord, Lord Teverson. This amendment seeks to ensure that cross-subsidy of carbon dioxide transport and storage activities, from users of other networks, is avoided. Clause 1 of the Bill establishes the Gas and Electricity Markets Authority as the economic regulator of carbon dioxide transport and storage. It also establishes the principal objectives and general duties for the Secretary of State and the economic regulator in the exercise of their respective functions in relation to the economic regulation of carbon dioxide transport and storage.

The principal objectives in Clause 1 include protecting the interests of current and future users of the network and those of consumers. In relation to the regulation of gas and electricity, the Secretary of State and the Gas and Electricity Markets Authority remain bound by the principal objectives to, respectively, protect the interests of current and future consumers in relation to gas conveyed through pipes, and in relation to electricity conveyed by distribution systems. Different principal objectives are appropriate to reflect that the objectives for carbon dioxide transport and storage networks are different from those of the gas and electricity networks.

Under the provisions in the Bill, the economic regulator should be able to take into account, in its decision-making in relation to CO_2 transport and storage activities, any impacts on users of gas and electricity networks that may arise from those decisions. I hope that the noble Lord is sufficiently reassured on this point.

I move on to Amendment 11, tabled by the noble Lord, Lord Lennie, and the noble Baroness, Lady Blake. This seeks to ensure that the Secretary of State and the Gas and Electricity Markets Authority are bound by the principles of regulatory best practice and the need to contribute to the achievement of sustainable development. Clause 1 sets out the principal objectives and general duties of the Secretary of State and the economic regulator. The principal objectives are complemented by statutory duties on the Secretary of State and the economic regulator to have regard to certain matters. This includes having regard to principles of regulatory best practice and the need to contribute to the achievement of sustainable development. To have regard to these matters means that the Secretary of State or the economic regulator, as the case may be, must give genuine attention and thought to these matters.

In a complex sector with varying objectives that can sometimes conflict, it is important that the regulator's duties strike the right balance between setting out all relevant issues and considerations, while giving some necessary discretion to the regulator to balance those considerations in its decision-making process and to have sufficient authority and independence in that decision-making. I hope that explains the point for the benefit of the noble Lord, Lord Lennie.

The formulation of the statutory duty as proposed by the noble Lord and the noble Baroness in our view risks compromising what is quite a delicate balance. The greater the number of statutory duties, and the more binding their nature, the more difficult the act of balancing the different, possibly conflicting, duties becomes. I hope that provides sufficient reassurance.

Amendments 12 and 13, again from the noble Lord, Lord Lennie, and the noble Baroness, Lady Blake, also seek to amend the statutory duties applying to the Secretary of State and the Gas and Electricity Markets Authority to ensure that the greenhouse gas emissions reduction targets under the Climate Change Act 2008 are a binding consideration in regulatory determinations. In relation to Amendment 12, as I have already set out, under the Climate Change Act the Secretary of State is already bound by law to ensure that the targets to reduce emissions are met. We therefore do not consider that this amendment is necessary.

5.15 pm

On Amendment 13, which would require that the economic regulator should be duty bound to assist the Secretary of State's compliance with his or her duties under the Climate Change Act, I reiterate the point in relation to the language of "have regard to" in the drafting of regulatory duties in a complex sector with varying objectives that can sometimes conflict. It is important to make sure that the regulator's duties strike the right balance between setting out all the relevant issues and considerations and allowing the necessary discretion for the regulator to balance those considerations—and of course to have sufficient authority and independence in that decision-making process. For example, in a circumstance where net-zero objectives are perhaps in tension with consumer protections, the amendment could inadvertently reduce the regulator's ability and discretion to balance such tension. The drafting of the regulatory duties will ensure that achieving emissions reduction targets is considered by both the regulator and the Secretary of State in their decision-making and that this is balanced appropriately against other regulatory considerations. I hope that I have been able to offer sufficient reassurance to both noble Lords.

I move on to the noble Baronesses, Lady Worthington and Lady Bennett of Manor Castle, and their remarks on Amendments 14, 15, 16 and 19, which are concerned with expanding definitions in the Bill to encompass non-geological forms of storage of carbon dioxide, including usage. The definition of "carbon capture entity" in Clause 63 could include a broad range of carbon-capture applications, including projects where the utilisation of carbon dioxide results in the storage of carbon dioxide with a view to its permanent containment. If the project meets the other conditions in the definition, decisions about which carbon-capture entities are eligible for support are therefore to be made on a case-by-case basis.

Carbon capture and usage technologies typically involve the capture of carbon dioxide and its subsequent use as an alternative to directly captured carbon dioxide that is stored permanently underground. As has been said, CCU has a variety of potential applications across industrial sectors in the UK, including fertiliser production, cement, lime and food and drink. However, not all those applications result in the permanent abatement of carbon dioxide. Carbon capture and usage resulting in the permanent abatement of carbon dioxide presents only a relatively small abatement potential when compared with carbon capture, which is disposed of by way of geological storage. Therefore, we are prioritising support for the deployment of carbon capture and storage in the UK in order to incentivise large-scale abatement of carbon dioxide and the establishment of transport and storage infrastructure essential for net zero.

We anticipate that those who may wish to off-take carbon dioxide from the network for the purposes of carbon capture and usage are likely to have alternative options available, such as off-taking directly from an emitter. Therefore, it is considered that economic regulation is not currently needed for networks transporting carbon dioxide for non-geological storage or for usage purposes. I hope therefore that I have offered sufficient reassurance to noble Lords on that matter and that they will not press their amendments.

Baroness Worthington (CB): I have a point of clarification. Are the definitions different because regulation over transportation is not needed or is the Minister saying, "We have picked a winner. It is going to be storage through this mechanism and we are not interested in the innovation that is coming through in these other sources of permanent storage."? If it is the latter, I would find that very hard to understand in a Bill that is seeking to support new technologies.

I think it is the case—the noble Baroness, Lady Bennett, mentioned it—that there is a company in the UK already doing this, with limited support from government. It can scale. It is not a silver bullet by any means but there is not a single operational carbon capture and storage facility in the UK apart from that one, and yet the Bill does not seem interested in supporting it. I would like to understand: if the Government is interested in supporting new technologies, can we make that as broad as possible?

Lord Callanan (Con): The Bill is intended to establish an economic means of support for geological formation. Of course, I commend the company referred to by the noble Baroness, which is managing to find ways of—I hope—permanently storing carbon dioxide in a form other than geological formation; indeed, there are other potential support mechanisms that could be deployed towards that. There is lots of research and development funding through UKRI and there is a whole range of other advanced technologies that we are supporting. In this case, in relation to economic regulation, the market mechanism that we want to set up on CCUS is dedicated principally towards geological long-term storage; we think that is the area that needs support under this system. That would provide the vast majority of storage that we can envisage at the moment but, of course, we are always willing to consider other methods. If this company is proving to be a success, that is great and I would be very happy to look at alternative ways of supporting it.

Lord Foulkes of Cumnock (Lab Co-op): I hope the Minister does not think I have gone soft—heaven forbid. It may be that I am not putting my foot on the pedal at the moment because of the reshuffle that is under way. I would like to see the Minister back so that we can re-engage in our usual hostilities, which we both enjoy. His reply has been very full but it needs careful consideration, looking at what he said in more detail in *Hansard* and discussing it among ourselves; I will discuss it with my noble friend Lady Liddell. The noble Baroness, Lady Worthington, has made some very good points that need to be taken account of. I hope that the Minister will continue discussions with the Carbon Capture and Storage Association about the points that it has been making. In view of the further discussions that might take place, I am willing to withdraw my amendment.

Amendment 8 withdrawn.

Amendments 9 to 16 not moved.

Clause 1 agreed.

Clause 2: Prohibition on unlicensed activities

Amendment 17

Moved by ***Lord Foulkes of Cumnock***

17: Clause 2, page 3, line 30, leave out "a licence" and insert "an economic licence issued pursuant to subsection (2) or a licence issued by another competent authority"

Member's explanatory statement

This amendment ensures consistency with the existing regulatory regime, namely the Storage of Carbon Dioxide (Licensing etc.) Regulations 2010, which provides for the granting of geological storage licences by the Oil and Gas Authority (now the North Sea Transition Authority). This amendment would enable private operators to develop merchant models to transport and store carbon dioxide in the longer term. This will also enable cross-border transport and geological storage of carbon dioxide to develop in time, without having to rely on exemptions being granted to allow private networks to develop.

Lord Foulkes of Cumnock (Lab Co-op): My Lords, it is me again. In moving Amendment 17, I shall speak also to Amendments 18, 20 and 26.

Amendment 17 would create a licensing regime fit for the future because it would ensure that there was the necessary consistency with the existing regulatory regime—the granting of geological storage licences by the Oil and Gas Authority, now the North Sea Transition Authority, under the Storage of Carbon Dioxide (Licensing etc.) Regulations 2010—and that it did not operate in isolation.

The amendment would future-proof the regulatory system by enabling private operators to develop merchant models to transport and store carbon dioxide in the longer term. That would enable cross-border transport and geological storage of carbon dioxide to develop in time without having to rely on exemptions being granted to allow private networks to develop.

Designing a new licensing regime to develop successful at-scale transport and storage networks for CCUS is challenging, and the industry welcomes the Government's rapid work to develop that in the Bill. As we have seen in other regulated industries, the first licences awarded are likely to be very different from those awarded a few years down the line, and the economics of the technology and market drivers will change too. Ofgem, as the economic regulator, will therefore need to amend and refine licences as necessary and collaborate with other regulators, such as the NSTA, which is already able to award licences to operators to store CO_2 under the Energy Act 2008.

If a merchant arrangement developed where a CO_2 store was run privately outside of the regulated network, would that not be something to encourage, provided that the safety of the CO_2 stored was regulated as it is presently by the NSTA? It would be sensible for the legislative framework to be sufficiently flexible to facilitate that.

The United Kingdom has significant geological assets, with one-third of Europe's entire offshore CO_2 storage potential. That is equal to that of all the other EU states combined; in Europe, only Norway has more. This enormous potential to offer CO_2 storage services to European and other countries presents the opportunity for the UK to become a global leader in CCUS, as it should be, and accelerate the global efforts to prevent CO_2 emissions. The legislative framework should avoid any future barriers to cross-border transportation of CO_2.

Amendment 18 would ensure that all types of permanent storage were included in the Bill. As with Amendments 14 and 16, I repeat that geological storage is not the only type of permanent storage of CO_2. As the noble Baronesses, Lady Worthington and Lady Bennett of Manor Castle, said, it can also be achieved by types of usage where the carbon dioxide is chemically bound in a product and not intended to re-enter the atmosphere. The Bill as it is currently written allows only for geological storage, so the amendment is intended to recognise that there are other methods of permanent storage. However, it is important to qualify in this drafting that it applies only to carbon capture and usage where it is intended to be permanent and therefore subject to monitoring and verification.

Amendment 20 specifically includes other modes of transporting carbon dioxide, such as shipping. The pipeline will be the primary form of transporting CO_2 but other modes of transport, including ship and rail, are already being developed in the UK and in other jurisdictions. The Bill must therefore be designed in such a way as to not limit future modes of CO_2 transportation. CO_2 transport by ship is almost certain to be part of the Scottish and south Wales clusters—the noble Lord, Lord Wigley, is here today—and subsequent phases of other CCUS clusters.

The amendment would ensure that transportation by ship and all other means of transport were included in the Bill rather than leaving their inclusion to regulations. That would send a strong and positive signal to the investment community that there were no barriers to the UK's development as a global CO_2 shipping hub.

Amendment 26 is a point of clarification to ensure that if a licence termination event has arisen, the Secretary of State has the discretion to revoke the licence, as opposed to the current wording, which suggests that it would happen automatically. New regimes need a wee bit of flexibility, particularly when

they are bedding down. The right—rather than the obligation—to terminate is a useful formulation when facing first-of-a-kind situations. I beg to move.

5.30 pm

Baroness Bennett of Manor Castle (GP): My Lords, I rise briefly, having attached my name to Amendment 23 in the names of the noble Lord, Lord Lennie—who, of course, by the nature of these structures has not yet spoken on it—and the noble Baroness, Lady Blake of Leeds. I attached my name only to Amendment 23 but Amendments 27 and 35 form something of a package; they all express concern about requiring regulation so that licences must be only

"granted to fit and proper persons".

As I was contemplating these amendments, I thought of the Oral Question earlier today in which my noble friend Lady Jones of Moulsecoomb took part, which looked at the situation we have now with the water companies in the UK. There is an obvious parallel with the crucial nature of the water companies and their fit and proper behaviour—and, without reopening that debate, their use of resources et cetera. If we are to go forward with carbon capture and storage at scale, it is obviously crucial that it is absolutely trustworthy and reliable, including in financial terms. We are talking about long-term investments for which we need real stability and certainty. The other parallel that occurred to me in contemplating this group was what happened with carbon offsetting—a phrase that has a bad odour in many parts of the world where we have seen a great deal of cowboy behaviour and many problems occurring.

Putting in this explicit "fit and proper persons" test, which, as the noble Lord, Lord Lennie, explained, is drawn from the National Security and Investment Act, is a very good parallel. If we are to securely store this carbon for the long term, in a manner that means the state does not have to step in to try to clean up a mess left by a private company, this is one way of attempting to ensure that that happens.

Baroness Blake of Leeds (Lab): My Lords, it gives me great pleasure to contribute on this set of amendments. I add my admiration and support for my noble friend Lord Foulkes, who has stepped into the breach admirably in the unfortunate absence of my noble friend Lady Liddell. I very much look forward to her return. I also add my thanks to the Minister for giving us time today to discuss this very important Bill; I think all of us recognise its significance at this time. Without reopening the debate from Second Reading, it is clear to us all that there are gaps. We need to take the opportunity to fill those gaps, given the state of crisis that the country is entering.

I want to speak to the amendments in the name of my noble friend Lord Lennie, starting with Amendments 21 and 22. They seek to make it clear that a licence can be granted for transportation or storage, or both if wanted, but that a licence need not be granted for everything. The activities that Clause 7 relates to are

"(a) operating a site for the disposal of carbon dioxide by way of geological storage; (b) providing a service of transporting carbon dioxide by a licensable means of transportation".

We have to acknowledge the importance of this section of the Bill. Indeed, the Climate Change Committee has referred to all of this area as a necessity, not an option, particularly as we move forward and technologies improve. As drafted, the Bill provides a single licence for both but, given that they are separate activities, we see no reason why individual licences could not be provided for each activity—even if it may be the case that most of the persons carrying out these activities carry out both.

A broad portfolio of technologies is needed to achieve deep emissions reductions, practically and cost effectively; carbon capture and storage is just one of them. In the International Energy Agency's sustainable development scenario, in which

"global CO_2 emissions from the energy sector fall to zero on a net basis by 2070"

carbon capture and storage

"accounts for nearly 15% of the cumulative reduction in emissions, compared with the Stated Policies Scenario. The contribution grows over time as the technology improves, costs fall and cheaper abatement options in some sectors are exhausted. In 2070, 10.4 Gt of CO2 is captured from across the energy sector".

This would provide more flexibility for a developing market, with the intention of driving down price within it.

We have already heard just how expensive carbon capture is and how, despite its importance for achieving clean energy, it has been rather slow to take off. According to the IEA, there were only around 20 commercial operations worldwide midway through last year. Commentators often cite carbon capture as being too expensive and unable to compete with wind and solar, given their falling costs over the last decade, but to dismiss the technology on cost grounds would be to ignore its unique strengths, its competitiveness in key sectors and its potential to enter the mainstream of low-carbon solutions. I am pleased that the Government have not done this. However, as we have made clear, we feel that not enough attention has been given to solar and onshore wind, in particular. It is important that we take whatever steps we can to make the market as attractive as possible and encourage licensing from fit and proper persons.

The noble Baroness, Lady Bennett, has already spoken to the next set of amendments, particularly Amendment 23. We feel that the phrase "fit and proper", having already had a usage in the National Security and Investment Act, is something that we should take very seriously. The aim of these amendments is to put the responsibility on the Secretary of State to personally deem the individual fit and proper.

Perhaps the greatest concern that we have to acknowledge is the environmental risk associated with long-term storage of captured CO_2, as any gradual or catastrophic leakage would likely negate the initial environmental benefits of capturing and storing CO_2 emissions. It is worth itemising those key risks, just so that we have them on record. First, there are technical hazards: we know that the construction of plants needed to capture and process CO_2 can be complex. Whether for new facilities or retrofitting and enabling the separation of CO_2 from other gases, there are

[Baroness Blake of Leeds]
inherent technical exposures in the CO_2 separation process relating to the compression and cooling of gases flying through pipes and the use of chemical solvents, for instance.

Secondly, on fire and explosion, as we know, there are lifting, handling and accidental damage risks at carbon capture plants, as is the case at any construction site. When carbon-capture technology is retrofitted to operate in industrial plants or facilities in typically high-hazard locations such as power stations, the risk of accidental damage and subsequent fire and explosion risks to existing assets might be enhanced. As I have stated, the risk of leakage must clearly be the subject of much consideration as we go forward.

Business interruption is another risk that we have to acknowledge in the failure to meet the carbon goals as they are laid out. Pure carbon dioxide gas can be compressed so that it reaches its dense and supercritical phase. In some cases, it can instead be cooled, which transforms it into a liquid state. Mechanical failures or breakdowns affecting this stage of the process could lead to lengthy business interruptions for clients. If the captured CO_2 cannot be transported, this may affect the emissions targets and carbon credits committed to by clients. Therefore, the need to look at all proper precautions is absolutely vital, and the persons tasked with doing this need to have the confidence of the whole sector.

Amendment 24, in the name of my noble friend Lord Lennie, would make regulations related to carbon dioxide transport and storage licence applications subject to the affirmative procedure. Surely it is sensible that Parliament has a full say in any regulations to ensure that licensing is done both to encourage carbon capture and storage and to ensure that it is properly safeguarded.

We have to see this in the context of an enormous possibility to create significant numbers of jobs—the estimate is 50,000 by as soon as 2030—across industry, power, transport and storage networks. It is absolutely essential that the confidence is there and that all the people who will be engaged in the work we intend to do are properly protected wherever possible.

Lord Callanan (Con): My Lords, this group of amendments considers the licensing of carbon dioxide transport and storage, and I thank everyone for their contributions. I will speak to Amendment 25, in my name, which relates to the definition of "decommissioning costs". Carbon dioxide transport and storage licence holders will be expected to establish decommissioning funds for each of their transport and storage networks. These funds will accrue money over the operational life of the network to pay for the expected offshore decommissioning and post-closure costs associated with the network.

As originally drafted, the Bill enables the Secretary of State to make regulations about the provision of security for decommissioning in relation to carbon storage installations. This is to ensure that regulations could require relevant persons to provide security for costs that reflect the full range of decommissioning obligations that arise in relation to carbon transportation and storage activities.

Regulations will provide the framework for how the decommissioning funds are to ensure that the funding is secure and available when it is required to pay for the decommissioning and post-closure obligations. The costs are likely to be those associated with the obligations that the licence holder will have under the permit, which could include costs associated with preparatory works between closure and the commencement of decommissioning activities and post-closure monitoring.

As noble Lords will be aware, a series of amendments has been tabled relating to the financing of the decommissioning of carbon storage assets, and I look forward to the forthcoming debate on those amendments. Should our amendments be accepted to apply these decommissioning fund powers to the new defined term "decommissioning costs", explained in Amendment 70, the previous definition of "decommissioning and legacy costs" becomes redundant and should therefore be omitted from Clause 11.

I will move on to the amendments tabled by noble Lords in this group. Amendment 17, tabled by the noble Lord, Lord Foulkes, and the noble Baroness, Lady Liddell, seeks to amend the scope of the prohibition on operating a CO_2 transport and storage network without an economically regulated licence. Although there is an existing framework for the licensing of carbon dioxide storage activities, established under the Energy Act 2008, that Act provides for technical regulation to ensure the secure geological storage of carbon dioxide. It therefore does not provide any powers in relation to economic regulation.

5.45 pm

The economic regulation and licensing framework for carbon dioxide transport and storage provided for in the Bill is intended to work alongside existing licence requirements in the Energy Act 2008. The economic regulation funding model allows a network operator, under the terms and conditions of a licence, to charge network users for delivering and operating the network—and the right to an "allowed revenue" that reflects its efficient costs and a reasonable return on the capital investment involved. In our view, this economic regulation model is appropriate for carbon dioxide transport and storage, given the natural monopoly characteristics of the infrastructure and assets. We recognise that, in the future, the market may evolve such that it may become appropriate for different licence types to be granted, with different conditions attached to those necessary first licences.

Amendment 18, tabled by the noble Lord, Lord Foulkes, and the noble Baroness, Lady Liddell, seeks to enable other forms of storage to be part of carbon dioxide transport and storage networks. Economic regulation is not currently considered appropriate for networks established to transport carbon dioxide for usage purposes, as we discussed in relation to similar amendments in the previous debate.

Amendment 20, also tabled by the noble Lord, Lord Foulkes, and the noble Baroness, Lady Liddell, aims to include provision for shipping, as well as any other method of non-pipeline transportation, within the scope of the economic licensing framework for the transport and storage of carbon dioxide. Subsection 2(3)(b) provides scope for alternative means

of transportation to be included within the economic licencing framework, if that is appropriate in the future, by way of regulations. So the Government recognise the importance of non-pipeline methods of transporting carbon dioxide for storage to achieving decarbonisation across sectors of the economy.

However, although pipelines for the transportation of carbon dioxide and carbon dioxide geological storage sites currently have certain monopolistic characteristics, non-pipeline forms of transportation obviously do not share these attributes. Therefore, it is currently not considered necessary to economically regulate non-pipeline methods of carbon dioxide transportation, but we will of course keep this matter closely under review.

Amendments 21 and 22, tabled by the noble Lord, Lord Lennie, and the noble Baroness, Lady Blake, seek to make it clear that a licence can be granted to cover either carbon dioxide transportation or storage, or both. In our view, the flexibility to license these activities both together and separately is important, and I reassure both noble Lords that this is already the intent and allowed for in the drafting. The first licences are expected to cover the full carbon dioxide transport and storage network. However, in future it may become desirable to separately license constituent parts of a network.

Clause 7 provides for the granting of licences in relation to activities described in Clause 2, and as drafted it allows for licences to be granted in respect of either one or both types of activity. Additionally, there is a power in Clause 8 to enable different licence types to be specified, should that become desirable in the future.

I now move to address Amendments 23, 27 and 35, also from the noble Lord, Lord Lennie, and the noble Baroness, Lady Bennett. These amendments seek to place a responsibility on the Secretary of State to ensure that individuals obtaining a carbon dioxide transport and storage licence are "fit and proper". These amendments place responsibility on the process of licence application, licence transfer and the special administrative regime. I support the aim of the noble Lord and noble Baroness to ensure the upmost standards for those wishing to engage in the transport and storage of carbon dioxide that will be needed to help us meet our net-zero target.

Of course, the granting of a licence pursuant to the Bill does not supersede or displace existing requirements for persons wishing to carry out activities relating to the storage of carbon dioxide to obtain the necessary storage permit. Such a permit may be granted where the relevant authority considers the applicant to be "technically competent" and "financially sound", as set out in Regulation 7 of the Storage of Carbon Dioxide (Licensing etc.) Regulations 2010.

Clause 9(6) of the Bill provides powers for the Secretary of State to specify in regulations any considerations that should be taken into account before granting a licence, such as a successful application for a storage permit—which would also be required—or compliance with other preconditions that could constitute a fit and proper persons test. The safety of CCUS is underpinned by a strong regulatory framework that is in place precisely to mitigate any risks, with BEIS of course being guided by the relevant expert bodies in this matter. The department is currently developing licence terms that require the ultimate controller of the licensee to provide the necessary undertakings that it is a fit and proper person and anticipates testing this in advance of awarding any licence.

I thank the noble Lord, Lord Lennie, and the noble Baroness, Lady Blake, for their Amendment 24 to Clause 9, which seeks to amend the parliamentary procedure applying to regulations made under this clause from negative to affirmative. Regulations which may be made under Clause 9 would be very much procedural in their nature, and it is the Government's firm view that the negative procedure is in this case entirely appropriate. Regulations could include conditions that future licence applications may be required to meet. For example, regulations could be produced to stipulate particular considerations for the economic regulator to take into account when it grants licences. However, decisions by the economic regulator and the Secretary of State under this part would, in any event, be bound by the principal objectives and general duties in Clause 1, which we discussed earlier.

Finally, I turn to Amendment 26 from the noble Lord, Lord Foulkes, and the noble Baroness, Lady Liddell, which seeks to clarify that the economic regulator may exercise discretion in whether to revoke a licence. Clause 17 is intended to ensure that persons with a material interest in the revocation of a carbon dioxide transport and storage licence are notified ahead of a licence being terminated. This facilitates, for example, a statutory transfer scheme being affected.

I hope I have been able to provide the necessary assurances to noble Lords and noble Baronesses. I thank them for helping us to test the robustness of the Government's carbon dioxide transport and storage licensing frameworks and I hope that they will not press their amendments.

Baroness Bennett of Manor Castle (GP): Perhaps I may come back to Amendment 27 and the associated amendments about a "fit and proper person". Throughout his response, the Minister referred to the granting and awarding of licences at the initial point. However, Amendment 27 is concerned in particular with the transferring of licences. I drew a parallel with our water companies. Most of those have been through multiple ownerships, including hedge funds and companies based in overseas tax havens, et cetera. These companies have a similar nature and have been operated through continual financial transactions and financialisation. Could the Minister comment, either now or in writing, on how the Government see that ongoing process? Okay, you have checked out the person and granted a licence, but then, in a year or two's time, the company might be bought by someone else and then again by someone else, including companies that may be very unclear. How will the Government keep control?

Lord Callanan (Con): If the licence is transferred to another body, it will also have to be approved under the same process. You cannot just wake up in the morning and decide to transfer your legal obligations to somebody else who is not an appropriate, fit and proper person. So, of course, that will be taken into consideration.

[Lord Callanan]

I must say that the noble Baroness is wrong to provide the parallel with the existing water companies. I do not think that anybody is arguing that people who hold those licences are not fit and proper to do the job. There is a legitimate argument about levels of investment and how that money is being spent, et cetera. However, no one is arguing about their competence; the noble Baroness is trying to draw a very bad parallel there.

Lord Teverson (LD): My Lords, I hope the Minister will forgive me for not understanding some of this, because it has raised a number of questions in my mind. If the CO_2 is put, say, under the sea—as we have been talking about—who actually owns the CO_2 once it has gone there? Who is liable for it and who has the legal right to the storage area itself? Given that most of these are created from the oil and gas that has been extracted, does that belong to the lease of the fossil fuel company that extracted them and does that last for ever? I do not understand how this works and where the liabilities land.

As the noble Baroness, Lady Bennett, said, if an organisation says, "I don't want to do this any more", there is no obligation for anybody else to take it on—so there will be a legal limbo. Perhaps the Minister could explain how this licensing works within that context. It seems to me that the Crown Estate will come into this somewhere, but maybe the Minister could enlighten me. I apologise again, because I should know the answer to all of these questions.

Lord Callanan (Con): I am happy to confirm the legal detail of the system to the noble Lord in writing, but my understanding is that the operator of the site would bear the responsibility. That is precisely why we have built in the relative decommissioning costs. The fund will have to be established and the operator will have to show that the ability is there to decommission the relevant pipe work, et cetera. I assume that that assurance and other long-term effects will also be built into that condition, but I will be very happy to confirm that in writing to the noble Lord.

Lord Teverson (LD): That would be very useful.

Lord Foulkes of Cumnock (Lab Co-op): My Lords, I say first of all that I agree with every word that my noble friend Lady Blake said in her excellent speech, particularly that she is looking forward to the return of my noble friend Lady Liddell—so am I. After all, on this issue she is the master and I am the apprentice, as has been fairly obvious today.

The Minister has again given us a very detailed and helpful reply. However, what worries me slightly is that I still think it strange that those involved in the commercial operation of this—the CCSA members and the CCSA itself—have different interpretations of the draft of the Bill from the officials advising the Minister. I hope that, between now and Report, there can be some discussions to see whether all those in the industry accept the Minister's explanations today. Otherwise, we can look forward to further amendments on Report. In the meantime, I withdraw my amendment.

Amendment 17 withdrawn.

Amendments 18 to 20 not moved.

Clause 2 agreed.

Clauses 3 to 6 agreed.

Clause 7: Power to grant licences

Amendment 21 not moved.

Clause 7 agreed.

Clause 8: Power to create licence types

Amendment 22 not moved.

Clause 8 agreed.

Clause 9: Procedure for licence applications

Amendments 23 and 24 not moved.

Clause 9 agreed.

Clause 10 agreed.

Clause 11: Conditions of licences: general

Amendment 25

Moved by ***Lord Callanan***

25: Clause 11, page 12, line 39, leave out "and legacy"

Member's explanatory statement

This amendment is consequential on the amendment in the name of Lord Callanan at page 72, line 25.

Amendment 25 agreed.

Clause 11, as amended, agreed.

Clauses 12 to 16 agreed.

Schedule 1 agreed.

6 pm

Clause 17: Termination of licence

Amendment 26 not moved.

Clause 17 agreed.

Clause 18: Transfer of licences

Amendment 27 not moved.

Clause 18 agreed.

Clauses 19 to 21 agreed.

Schedule 2 agreed.

Clauses 22 to 25 agreed.

Clause 26: Provision of information to or by the economic regulator

Amendment 28

Moved by ***Lord Foulkes of Cumnock***

28: Clause 26, page 25, line 34, leave out "Environmental" and insert "Environment"

Member's explanatory statement

This amendment is to correct a misspelling of SEPA's name.

Lord Foulkes of Cumnock (Lab Co-op): My Lords, noble Lords will be glad to hear that this is my last contribution today. I hope fervently that the Minister will at last accept one amendment that I have proposed—Amendment 28, which I now move. In reference to SEPA, the Bill says "Environmental", but in fact that is a typographical error and it should say "Environment". We should get the name of SEPA right. If the Minister does not accept that, I shall be astonished, disappointed and upset in every way.

Amendments 29 to 31 and 37 are more substantial. They deal with the protection of commercially sensitive information. It is important to establish a framework for the licence holder to seek to protect commercially sensitive information, which may be monitored, gathered or requested by the regulator. Amendment 29 seeks to allow CO_2 transport and storage licence holders to raise concerns regarding protecting potentially commercially sensitive information to be shared with the regulator. It is of particular importance given the long list of persons included in Clause 26(2), as well as the unspecified group of persons under Clause 26(2)(m), which refers to

"any other person the economic regulator considers appropriate who has powers or duties conferred by or by virtue of primary legislation which the economic regulator considers relevant to the exercise of the economic regulator's functions relating to the regulation of licensable activities."

That is a big catch-all clause.

Amendment 30, along with Amendment 28, relates to information held by the regulator and seeks to establish a framework for the licence holder to seek to protect commercially sensitive information, which may be monitored, gathered or requested by the regulator or the Secretary of State. The amendment proposes that the Secretary of State will be able to determine that commercially sensitive information can be excepted from the duty to disclose under the power of the Secretary of State to require information in Clause 27.

Amendment 31 mirrors the same protection on information required by the regulator as outlined for the Secretary of State in the legislation, with regard to the licensing of CO_2 transport and storage networks. In addition, a new subsection is proposed to establish a framework for the licence holder to protect its commercially sensitive information, as proposed in the previous amendments.

Amendment 32 is relevant to the regulator's duty to carry out an impact assessment. It ensures that the regulator must act reasonably when determining that it is not necessary to carry out an impact assessment due to reasons of impracticability or inappropriateness. This is important, as a definition of "urgently" is not provided—nor of "impracticability" or "inappropriateness". Naturally, there would be a presumption that the regulator would act reasonably. However, inclusion of the word here should provide comfort in this regard.

Amendment 37 seeks to establish a framework for the licence holder to seek to protect commercially sensitive information. As I have previously stated, that is of particular importance, given the long list of persons included in the clause to which I referred earlier. I beg to move Amendment 28.

Lord Callanan (Con): My Lords, the noble Lord will know that I hate to disappoint him on any occasion, so I shall say something unprecedented, which, as far as I am aware, has never been said in this House before: on this specific and limited occasion, the noble Lord is right on this point. I can say with the full force of the Government behind me that we are prepared to accept his Amendment 28, and I thank the noble Lord for pointing out this typographical error.

I move on to the noble Lord's more substantial amendments, Amendment 29 to 31 and 37, for which I thank him and the noble Baroness, Lady Liddell. These amendments aim to set out further detail on the economic licence for the transport and storage of carbon dioxide. In particular, they concern the protection of a licence holder's commercially sensitive information from certain disclosure requirements contained in Parts 1 and 2 of the Bill. These provisions, as drafted, enable the Secretary of State and the economic regulator to access information that is necessary for the conduct of their functions. It may be appropriate in some cases for the economic regulator to provide such information to relevant regulatory bodies or entities on which powers or duties have been conferred by legislation, such as the counterparty to the emitter contracts, or to obtain relevant information from those entities to ensure that decision-making is robust and takes into account all relevant considerations. Meanwhile, provision has been made in Clauses 26 and 27 to confirm that appropriate data protection requirements would continue to apply.

The noble Lord can be reassured, I hope, that these provisions were not drafted to facilitate any widespread publication of commercially sensitive information but to enable robust, informed decision-making. Further, the powers limit information requests to those which the economic regulator or Secretary of State consider necessary to facilitate the proper exercise of their functions.

Amendment 32, again tabled by the noble Lord, Lord Foulkes, seeks to ensure that the economic regulator must reasonably consider whether the urgency of a matter makes it impracticable or inappropriate to carry out and publish an impact assessment for major proposals, or to make a statement as to why it is unnecessary for it to do so. Under current drafting of the Bill, it is where the economic regulator is minded to pursue a proposal which could have a significant impact on licence holders, persons engaged in activities associated with licensable activities, or on the general public or the environment. In such instances, the economic regulator is required to carry out and publish an assessment of the likely impact of implementing the proposal, or to confirm that it considers it unnecessary to carry out an assessment, with the reasons being given for this conclusion. This requirement does not apply if it appears to the economic regulator that it would be impractical or inappropriate, given the urgency of the matter to which the proposal relates.

In some situations, the urgency of the proposal would make it impractical for the economic regulator either to conduct the impact assessment before implementing a proposal or to publish a statement explaining why an assessment would be unnecessary.

[Lord Callanan]
We think that it is important that the economic regulator is empowered to act swiftly without the need to produce such documentation in the unlikely event that that need arises.

I hope that I have been able to offer sufficient reassurance to the noble Lord in respect of the requirement for the economic regulator to conduct an impact assessment where required before implementing a major proposal, except in the limited situation of potential urgency or emergency. Therefore, with the reassurances that I have provided him, I hope that the noble Lord will feel able to withdraw or not press all his amendments, except for Amendment 28, which we accept.

Lord Foulkes of Cumnock (Lab Co-op): My Lords, I am most grateful to the Minister for accepting and agreeing to Amendment 28. I can assure him that I will not let that go to my head, but I will keep on trying with other amendments. I listened carefully to his explanation in relation to the other amendments. I understand what he is saying and I think it is right, so I will not pursue them.

Amendment 28 agreed.

Amendment 29 not moved.

Clause 26, as amended, agreed.

Clause 27: Power of Secretary of State to require information

Amendment 30 not moved.

Clause 27 agreed.

Clause 28 agreed.

Clause 29: Power to require information for purposes of monitoring

Amendment 31 not moved.

Clause 29 agreed.

Clause 30: Duty to carry out impact assessment

Amendment 32 not moved.

Clause 30 agreed.

Clause 31 agreed.

Clause 32: Enforcement of obligations of licence holders

Amendment 33

Moved by ***Lord Callanan***

33: Clause 32, page 30, line 25, leave out from beginning to "provision" and insert "Schedule (Enforcement of obligations of licence holders) makes"

Member's explanatory statement

This amendment, the amendment in the name of Lord Callanan at page 30, line 28, and New Schedule (Enforcement of obligations of licence holders) provide for the enforcement of obligations of licence holders and accordingly omit the powers in clause 32 to make corresponding provision by regulations.

Lord Callanan (Con): My Lords, in moving Amendment 33 I will also speak to Amendments 34 and 36 standing in my name. These amendments seek to amend Clause 32, concerning the enforcement of obligations of licence holders in the carbon dioxide transport and storage sector.

Clause 32, as drafted at introduction, establishes a delegated power for the Secretary of State to make, by regulations, the conditions of a carbon dioxide transport and storage licence enforceable by the economic regulator. In particular, this clause as originally drafted stipulates that regulations may provide that both the conditions within licences and notices served on the licence holder to provide information to the economic regulator may be enforced in the manner provided for in Section 25 of the Electricity Act 1989. However, Amendments 33, 34 and 36 would instead provide for the necessary enforcement measures in the Bill.

The powers available to the economic regulator to enforce licensable carbon dioxide transport and storage activities are intended to align broadly with enforcement powers in the gas and electricity sectors. However, in our view, setting out these powers in the primary legislation, which establishes the new economic regulation and licensing framework for carbon dioxide transport and storage, provides greater clarity for both the regulator and those who are to be regulated. This will remove any potential for debate regarding the different principal objectives and general duties that the economic regulator would be subject to when exercising these powers and the territorial extent of such powers.

I hope that noble Lords will agree that this further clarity and separation will serve to effectively enable the economic regulator to take appropriate action against any breach of the CO_2 transport and storage licence conditions and in the event of non-compliance with information requests. Appropriate enforcement powers are essential to ensure that the licensing framework operates as intended, to ensure that licence conditions are adhered to and to prevent anti-competitive behaviour. This amendment to provide the economic regulator with complete powers for enforcement would therefore further secure its ability to support the establishment of the UK's CCUS industry. I beg to move.

6.15 pm

Lord Teverson (LD): My Lords, I welcome very much that we have moved on to the area of enforcement because, if there is one thing that is true in anything to do with the environment, we make legislation—very effectively, often—but our enforcement does not work, because of either lack of will or lack of resources.

I would like assurance from the Minister, if possible, that the regulator will be resourced enough—I would be interested to know what conversations have taken place over this—to make sure that enforcement does take place. Of course, for enforcement to happen,

particularly in physical facilities, there needs to be inspection. I would be interested in understanding who will be inspecting and what the resource level is likely to be.

I come back to a very good point made by the noble Baroness, Lady Blake of Leeds, on safety, which was not answered by the Minister earlier. CO_2, although not toxic like carbon monoxide, is a gas that, if exposed, can be suffocating. I would like to understand how enforcement on subsea storage facilities can take place.

Enforcement is good, but my questions are these: how will it be resourced, what is the programme for it and can it happen sufficiently to ensure safety?

Lord Lennie (Lab): My Lords, the government amendments appear to correct an oversight in the Bill. If noble Lords are confused then so am I. I am not entirely sure what the Minister was saying, but it appears to me that there was a stage missing in the original drafting of this Bill and the attempt now is to put in that stage—which is, in effect, a final warning to licence holders to act in specific ways in order to become compliant. If that is right, then I understand it and I do not oppose it, but I want to make sure that I understand correctly what the Government are trying to do. If I am right then, other than to point out the original omission, we do not oppose these measures; we just want clarification of what is being put into the Bill.

Lord Callanan (Con): I am happy to provide the reassurance that the noble Lord, Lord Lennie, asks for. It was simply a matter where, originally, we intended to take a power to do this through secondary legislation but, as we got to a later stage of drafting on the Bill, we thought that it would be more appropriate to put it in primary legislation. That is normally something that the House asks us to do. We were, on this occasion, trying to pre-empt some of the points that may be made by Peers to say that we should not do so much under powers and secondary legislation and should put it in the Bill—that is in fact what we are doing.

With regard to the point made by the noble Lord, Lord Teverson, on resourcing, it is very early days—we have not even set up the regulator yet—so I cannot give him any specific figures on what resourcing the regulator will have. The Treasury will no doubt want to have considerable input into this, but we will want to make sure that it is appropriately resourced and that we have the appropriate technical abilities, technical inspectors and so on to make sure that this activity is appropriately licensed and enforced and, of course, is safe for operators, personnel and the public.

Amendment 33 agreed.

Amendment 34

Moved by ***Lord Callanan***

34: Clause 32, page 30, line 28, leave out subsections (2) and (3)

Member's explanatory statement

See the explanatory statement for the amendment in the name of Lord Callanan at page 30, line 25.

Amendment 34 agreed.

Clause 32, as amended, agreed.

Clauses 33 to 42 agreed.

Clause 43: Objective of a transport and storage administration

Amendment 35 not moved.

Clause 43 agreed.

Clauses 44 to 52 agreed.

Amendment 36

Moved by ***Lord Callanan***

36: Before Schedule 3, insert the following new Schedule—

"Schedule

Enforcement of obligations of licence holders

Orders for securing compliance with certain provisions

(1) Where the economic regulator is satisfied that a licence holder is contravening, or is likely to contravene, any relevant condition or requirement, the economic regulator must make an order (a "final order") containing such provision as appears to the economic regulator to be necessary for the purpose of securing compliance with that condition or requirement (but this sub-paragraph does not apply if the economic regulator is required to by sub-paragraph (2) to make a provisional order in respect of the contravention or likely contravention).

(2) Where it appears to the economic regulator—

(a) that a licence holder is contravening, or is likely to contravene, any relevant condition or requirement, and

(b) that it is appropriate to make an order under this sub-paragraph,

the economic regulator must (instead of taking steps towards the making of final order) make an order (a "provisional order") containing such provision as appears to the economic regulator to be necessary for the purpose of securing compliance with that condition or requirement.

(3) In determining for the purposes of sub-paragraph (2)(b) whether it is appropriate to make a provisional order, the economic regulator must have regard, in particular, to the extent to which any person is likely to sustain loss or damage in consequence of anything that is likely to be done (or omitted to be done) in contravention of the relevant condition or requirement before a final order may be made.

(4) The economic regulator must confirm a provisional order, with or without modifications, if—

(a) the economic regulator is satisfied that the licence holder is contravening, or is likely to contravene, any relevant condition or requirement, and

(b) the provision made by the order (with any modifications) is necessary for the purpose of securing compliance with that condition or requirement.

(5) If a provisional order is not previously confirmed under sub-paragraph (4), it is to cease to have effect at the end of such period (not exceeding three months) as is determined by or under the order.

(6) Sub-paragraphs (1) to (4) are subject to sub-paragraphs (7) to (9) and paragraph 2.

(7) The economic regulator—

(a) must, before making a final order or making or confirming a provisional order, consider whether it would be more appropriate to proceed under the Competition Act 1998 (see section 37);

(b) must not make a final order, or make or confirm a provisional order, if the economic regulator considers that it would be more appropriate to proceed under that Act.

(8) The economic regulator may not make a final order or make or confirm a provisional order if the economic regulator is satisfied that the duties imposed on the economic regulator by section 1 preclude the making or, as the case may be, the confirmation of the order.

(9) The economic regulator is not required to make a final order or make or confirm a provisional order if it is satisfied—

(a) that the licence holder has agreed to take and is taking all such steps as appear to the economic regulator to be for the time being appropriate for the purpose of securing or facilitating compliance with the condition or requirement in question, or

(b) that the contraventions were, or the apprehended contraventions are, of a trivial nature.

(10) Where the economic regulator decides that it would be more appropriate to proceed under the Competition Act 1998 or is satisfied as mentioned in sub-paragraphs (8) and (9), the economic regulator must—

(a) give notice to the licence holder that the economic regulator has so decided or is so satisfied, and

(b) publish a copy of the notice in such manner as the economic regulator considers appropriate for the purpose of bringing the matters to which the notice relates to the attention of persons likely to be affected by them.

(11) A final or provisional order—

(a) must require the licence holder (according to the circumstances of the case) to do, or not to do, such things as are specified in the order or are of a description so specified,

(b) must take effect at such time as is determined by or under the order, which must be the earliest practicable time, and

(c) may be revoked at any time by the economic regulator.

(12) In this Schedule—

"final order" means an order under sub-paragraph (1);

"provisional order" means an order under sub-paragraph (2);

"relevant condition" , in relation to a licence holder, means any condition of any licence (as defined in section 7) held by that person;

"relevant requirement" , in relation to a licence holder, means any requirement imposed on the licence holder by or under this Part.

Procedural requirements

2 (1) Before making a final order or confirming a provisional order, the economic regulator must give notice—

(a) stating that the economic regulator proposes to make or confirm the order and setting out its effect,

(b) stating—

(i) the relevant condition or requirement,

(ii) the acts or omissions which, in the economic regulator's opinion, constitute or would constitute contraventions of it, and

(iii) the other facts which, in the economic regulator's opinion, justify the making or confirmation of the order, and

(c) specifying the time (which must not be less than 21 days from the date of publication of the notice) within which representations or objections to the proposed order or confirmation of the order may be made,

and must consider any representations or objections which are duly made and not withdrawn.

(2) A notice under sub-paragraph (1) is given—

(a) by publishing the notice in such manner as the economic regulator considers appropriate for the purpose of bringing the matters to which the notice relates to the attention of persons likely to be affected by them, and

(b) by sending a copy of the notice, and a copy of the proposed order or of the order proposed to be confirmed, to the licence holder.

(3) The economic regulator must not make a final order with modifications, or confirm a provisional order with modifications, except with the consent of the licence holder or after complying with the requirements of sub-paragraph (4).

(4) The requirements are that the economic regulator must—

(a) give to the licence holder such notice as the economic regulator considers necessary of the economic regulator's proposal to make or confirm the order with modifications,

(b) specify the time (which must not be less than 21 days from the date of the service of the notice) within which representations or objections to the proposed modifications may be made, and

(c) consider any representations or objections which are duly made and not withdrawn.

(5) Where the economic regulator decides to proceed under the Competition Act 1998 in a case falling within paragraph 1(7)(b), the economic regulator must—

(a) inform the licence holder concerned of that decision, and

(b) publish the notice in a manner that the economic regulator thinks appropriate for bringing the notice to the attention of persons likely to be affected by the decision.

(6) Before revoking a final order or a provisional order which has been confirmed, the economic regulator must give notice—

(a) stating that the economic regulator proposes to revoke the order and setting out its effect, and

(b) specifying the time (which must not be less than 28 days) from the date of publication of the notice within which representations or objections to the proposed revocation may be made,

and must consider any representations or objections which are duly made and not withdrawn.

(7) A notice under sub-paragraph (6) is given—

(a) by publishing the notice in such manner as the economic regulator considers appropriate for the purpose of bringing the matters to which the notice relates to the attention of persons likely to be affected by them, and

(b) by sending a copy of the notice to the licence holder.

(8) As soon as practicable after a final order is made or a provisional order is made or confirmed, the economic regulator must—

(a) serve a copy of the order on the licence holder, and

(b) publish such a copy in such manner as the economic regulator considers appropriate for the purpose of bringing the order to the attention of persons likely to be affected by it.

Validity and effect of orders

(1) If the licence holder is aggrieved by a final or provisional order and wishes to question its validity on the ground that the making or confirmation of it was not within the powers of paragraph 1, or that any of the requirements of paragraph 2 have not been complied with in relation to it, the licence holder may within 42 days from the date of service on the licence holder of a copy of the order make an application to the court under this paragraph.

(2) On any such application the court, if satisfied that the making or confirmation of the order was not within those powers or that the interests of the licence holder have been substantially prejudiced by a failure to comply with those requirements, may quash the order or any provision of the order.

(3) Except as provided by this paragraph, the validity of a final or provisional order may not be questioned by any legal proceedings whatever.

(4) The obligation to comply with a final or provisional order is a duty owed to any person who may be affected by a contravention of it.

(5) Where a duty is owed by virtue of sub-paragraph (4) to any person any breach of the duty which causes that person to sustain loss or damage is to be actionable at the suit or instance of that person.

(6) In any proceedings brought against any person in pursuance of sub-paragraph (5), it is a defence for the person to prove that they took all reasonable steps and exercised all due diligence to avoid contravening the order.

(7) Without prejudice to any right which any person may have by virtue of sub-paragraph (5) to bring civil proceedings in respect of any contravention or apprehended contravention of a final or provisional order, compliance with any such order is to be enforceable by civil proceedings by the economic regulator for an injunction or interdict or for any other appropriate relief.

(8) In this paragraph "the court" means—

(a) in relation to England and Wales and Northern Ireland, the High Court;

(b) in relation to Scotland, the Court of Session.

Penalties

(1) Where the economic regulator is satisfied that a licence holder has contravened or is contravening any relevant condition or requirement, the economic regulator may, subject to paragraph 6, impose on the licence holder a penalty of such amount as is reasonable in all the circumstances of the case.

(2) Before imposing a penalty on a licence holder under sub-paragraph (1), the economic regulator must consider whether it would be more appropriate to proceed under the Competition Act 1998.

(3) The economic regulator must not impose a penalty on a licence holder under sub-paragraph (1) if it considers that it would be more appropriate to proceed under the Competition Act 1998.

(4) Before imposing a penalty on a licence holder under sub-paragraph (1) the economic regulator must give notice—

(a) stating that it proposes to impose a penalty and the amount of the penalty proposed to be imposed,

(b) setting out the relevant condition or requirement,

(c) specifying the acts or omissions which, in the opinion of the economic regulator, constitute the contravention in question and the other facts which, in the opinion of the economic regulator, justify the imposition of a penalty and the amount of the penalty proposed, and

(d) specifying the period (which must not be less than 21 days from the date of publication of the notice) within which representations or objections with respect to the proposed penalty may be made,

and must consider any representations or objections which are duly made and not withdrawn.

(5) Before varying any proposal stated in a notice under sub-paragraph (4)(a) the economic regulator must give notice—

(a) setting out the proposed variation and the reasons for it, and

(b) specifying the period (which must be at least 21 days from the date of publication of the notice) within which representations or objections with respect to the proposed variation may be made,

and must consider any representations or objections which are duly made and not withdrawn.

(6) As soon as practicable after imposing a penalty, the economic regulator must give notice—

(a) stating that it has imposed a penalty on the licence holder and its amount,

(b) setting out the relevant condition or requirement in question,

(c) specifying the acts or omissions which, in the opinion of the economic regulator, constitute the contravention in question and the other facts which, in the opinion of the economic regulator, justify the imposition of the penalty and its amount, and

(d) specifying a date, no earlier than the end of the period of 42 days from the date of service of the notice on the licence holder, by which the penalty is required to be paid.

(7) The licence holder may, within 21 days of the date of service on the licence holder of a notice under sub-paragraph (6), make an application to the economic regulator for it to specify different dates by which different portions of the penalty are to be paid.

(8) Any notice required to be given under this paragraph must be given—

(a) by publishing the notice in such manner as the economic regulator considers appropriate for the purpose of bringing the matters to which the notice relates to the attention of persons likely to be affected by them, and

(b) by serving a copy of the notice on the licence holder.

(9) This paragraph is subject to paragraph 10 (maximum amount of penalty that may be imposed).

(10) Any sums received by the economic regulator by way of penalty under this paragraph must be paid into the Consolidated Fund.

Statement of policy with respect to penalties

5 (1) The economic regulator must prepare and publish a statement of policy with respect to the imposition of penalties and the determination of their amount.

(2) In deciding whether to impose a penalty, and in determining the amount of any penalty, in respect of a contravention the economic regulator must have regard to its statement of policy most recently published at the time when the contravention occurred.

(3) The economic regulator may revise its statement of policy and where it does so must publish the revised statement.

(4) Publication under this paragraph must be in such manner as the economic regulator considers appropriate for the purpose of bringing the matters contained in the statement of policy to the attention of persons likely to be affected by them.

(5) The economic regulator must undertake such consultation as it considers appropriate when preparing or revising its statement of policy.

Time limits on the imposition of penalties

6 (1) Where no final or provisional order has been made in relation to a contravention, the economic regulator may not impose a penalty in respect of the contravention later than the end of the period of five years from the time of the contravention, unless before the end of that period—

(a) the notice under paragraph 4(4) relating to the penalty is served on the licence holder under paragraph 4(8), or

(b) a notice under section 29(2)(b) is served on the licence holder which specifies that the notice is served in connection with a concern on the part of the economic regulator that the licence holder may be contravening, or may have contravened, a relevant condition or requirement.

(2) Where a final or provisional order has been made in relation to a contravention, the economic regulator may not impose a penalty in respect of the contravention unless the notice relating to the penalty under paragraph 4(4) was served on the licence holder under paragraph 4(8)—

(a) within three months from the confirmation of the provisional order or the making of the final order, or

(b) where the provisional order is not confirmed, within six months from the making of the provisional order.

Interest and payment of instalments

7 (1) If the whole or any part of a penalty is not paid by the date by which it is required to be paid, the unpaid balance from time to time is to carry interest at the rate for the time being specified in section 17 of the Judgments Act 1838.

(2) If an application is made under paragraph 4(7) in relation to a penalty, the penalty is not required to be paid until the application has been determined.

(3) If the economic regulator grants an application under that sub-paragraph in relation to a penalty but any portion of the penalty is not paid by the date specified in relation to it by the economic regulator under that sub-paragraph, the economic regulator may where it considers it appropriate require so much of the penalty as has not already been paid to be paid immediately.

Appeals against penalties

8 (1) If the licence holder on whom a penalty is imposed is aggrieved by—

(a) the imposition of the penalty,

(b) the amount of the penalty, or

(c) the date by which the penalty is required to be paid, or the different dates by which different portions of the penalty are required to be paid,

the licence holder may make an application to the court under this paragraph.

(2) An application under sub-paragraph (1) must be made—

(a) within 42 days from the date of service on the licence holder of a notice under paragraph 4(6), or

(b) where the application relates to a decision of the economic regulator on an application by the licence holder under paragraph 4(7), within 42 days from the date the licence holder is notified of the decision.

(3) On any such application, where the court considers it appropriate to do so in all the circumstances of the case and is satisfied of one or more of the grounds falling within sub-paragraph (4), the court—

(a) may quash the penalty,

(b) may substitute a penalty of such lesser amount as the court considers appropriate in all the circumstances of the case, or

(c) in the case of an application under sub-paragraph (1)(c), may substitute for the date or dates imposed by the economic regulator an alternative date or dates.

(4) The grounds falling within this sub-paragraph are—

(a) that the imposition of the penalty was not within the power of the economic regulator under paragraph 4,

(b) that any of the requirements of sub-paragraphs (4) to (6) or (8) of paragraph 4 have not been complied with in relation to the imposition of the penalty and the interests of the licence holder have been substantially prejudiced by the non-compliance, or

(c) that it was unreasonable of the economic regulator to require the penalty imposed, or any portion of it, to be paid by the date or dates by which it was required to be paid.

(5) If an application is made under this paragraph in relation to a penalty, the penalty is not required to be paid until the application has been determined.

(6) Where the court substitutes a penalty of a lesser amount it may require the payment of interest on the substituted penalty at such rate, and from such date, as it considers just and equitable.

(7) Where the court specifies, as a date by which the penalty or a portion of the penalty is to be paid, a date before the determination of the application under this paragraph it may require the payment of interest on the penalty, or portion, from that date at such rate as it considers just and equitable.

(8) Except as provided by this paragraph, the validity of a penalty is not to be questioned by any legal proceedings whatever.

(9) In this paragraph "the court" means—

(a) in relation to England and Wales or Northern Ireland, the High Court, and

(b) in relation to Scotland, the Court of Session.

Recovery of penalties

9 Where a penalty imposed under paragraph 4(1), or any portion of it, has not been paid by the date on which it is required to be paid and—

(a) no application relating to the penalty has been made under paragraph 8 during the period within which such an application can be made, or

(b) an application has been made under that paragraph and determined,

the economic regulator may recover from the licence holder, as a civil debt due to it, any of the penalty and any interest which has not been paid.

Maximum amount of penalty

10 (1) The maximum amount of penalty that may be imposed on a licence holder in respect of a contravention may not exceed 10 per cent of the licence holder's turnover.

(2) The Secretary of State may by regulations provide for how a person's turnover is to be determined for the purposes of this paragraph.

(3) Regulations under sub-paragraph (2) are subject to the affirmative procedure.

(4) In this paragraph "penalty" means a penalty imposed on a licence holder under paragraph 4."

Member's explanatory statement

See the explanatory statement for the amendment in the name of Lord Callanan at page 30, line 25.

Amendment 36 agreed.

Schedule 3: Transfer schemes

Schedule 3 agreed.

Clause 53: Cooperation of storage licensing authority with economic regulator

Amendment 37 not moved.

Clause 53 agreed.

Clauses 54 to 56 agreed.

Schedule 4: Amendments related to Part 1

Schedule 4 agreed.

Clause 57: Revenue support contracts

Amendment 38

Moved by ***Lord Teverson***

38: Clause 57, page 51, line 34, at end insert—

"(1A) When making regulations under this section the Secretary of State must also publish an explanation of how revenue support mechanisms deliver in line with the CCUS Strategy and Policy Statement and the overall Strategy and Policy Statement, and how milestones relate to net zero pathways set out by the Climate Change Committee."

Member's explanatory statement

This amendment seeks to ensure that policy processes are aligned with the Government's Strategy and Policy Statement.

Lord Teverson (LD): I asked specifically that all these amendments be grouped together because they have one aim: to make sure that there is a coherence between policy measures and the net zero pathway that is the Government's own aim. Of course, the Government have undertaken to produce a government strategy and policy statement and the Bill requires a statement focusing on CCUS to be produced as well. However, our contention is that there is no current requirement for policy and infrastructure planning processes to be based on a consistent set of assumptions about the future. That means, in practice, that two projects could get a green light despite being justified by incompatible visions of system need, ensuring that one would ultimately be left stranded. Of course, that does not lead to confidence in this area. So there could be incompatible visions.

For instance, hydrogen electrification visions of the future involve very different supporting infrastructure, and a lack of coherence could create expensive infrastructure which, at the end of the day, is unusable or redundant. The strategy provides an opportunity to set out the latest set of assumptions, projections and decision methodology and I am sure that is what the Government want to do to underpin their policy, to which other processes should align. What we are really trying to do in these amendments is to make sure, practically, that the actions that arise from the Bill are coherent and tie in with the policy statements of the Government. It seems absolutely straightforward to me: it is that missing link, if you like, that pushes together intent in these various areas and makes sure that the strategy is coherent in its delivery. It is as simple as that and I hope the Government and the Minister will look favourably on that approach. I beg to move.

Baroness Blake of Leeds (Lab): I do not have an enormous amount to add to the comments of the noble Lord, Lord Teverson. I highlight again the significance of linking strategy and policy: that is crucial. We will discuss in future debates the issues around the role of the ISOP and its independence, and, particularly in the context of this afternoon's debate, look at long-term thinking, making sure that we get all the checks and balances in place. We are in a very fast-moving environment and need to make sure that we are absolutely on top of all the changes that are taking place. The noble Lord, Lord Teverson, highlighted the risk of lack of coherence: we need to make sure that everything is nailed down, line by line, and I am sure we will have further discussion on these areas as we go through different aspects of the Bill. I look forward to the Minister's conclusions on this group of amendments.

Lord Callanan (Con): I thank the noble Lord, Lord Teverson, for his amendments, beginning with Amendments 38 and 112. The Bill provides that the Secretary of State may designate a CCUS strategy and policy statement to set out the strategic priorities of the Government in formulating their CCUS policy. This would also need to take account of any statement designated under Section 131 of the Energy Act 2013. The Secretary of State must carry out their functions under this part in the manner they consider is best to further deliver the policy outcomes set out in the statement. In addition, parliamentarians will have the opportunity to consider any draft CCUS strategy and policy statement before it can be designated, as is provided for by Clause 91(10). Setting out in a strategic policy statement possible scenarios for policy change would start to introduce considerable uncertainty for both investors and the regulator which would, in my view, hamper the stability of the sector.

Amendment 120 to Clause 98 would require that, when making regulations establishing or adjusting a low-carbon heat scheme, the Secretary of State must publish a statement demonstrating how the scheme would deliver in line with both the carbon capture usage and storage strategy and policy statement and any overall strategy and policy statement provided for

[Lord Callanan]
by the Energy Act 2013. Of course, I agree with the noble Lord in his principle that policy-making should be aligned with the broader strategy and the latest science: that is why all policy on heat and building decarbonisation is and will continue to be developed in line with wider government energy and decarbonisation strategy. As we said in a recent government response to a consultation, the plan to introduce, for instance, the market-based low-carbon heat scheme is aligned with the aim to expand the deployment of heat pumps towards 600,000 installations per year by 2028. I am afraid I do not agree with the noble Lord, and therefore do not believe that requiring another series of publications each time new regulations are made is ultimately necessary. I therefore hope he will feel able to withdraw his amendment.

Turning to Amendment 128, Clauses 108 and 109 will enable the safe and effective delivery of a village-scale hydrogen heating trial to gather vital evidence to help make decisions on the potential role of hydrogen in heat decarbonisation. I reassure the noble Lord that trial development is already following the latest science. This amendment would delay the introduction of new regulations which are focused on the protection of consumers until two strategy and policy statements are published. The exact contents of these documents would also need to be properly consulted on before they are issued.

6.30 pm

I am pleased that the noble Lord recognises the importance of ensuring that all the different strands of the Government's net-zero agenda are joined up. I can assure him that this is the case and that the impacts of any regulations made under Clause 109 will be clearly set out. The Government do not believe that this amendment is necessary for the success of the hydrogen village trial and therefore, again, I hope he will feel able not to move it.

Amendments 143, 145 and 148 all relate to the independent system operator and planner, now referred to as ISOP. The Bill is intended to extend the strategy and policy statement to provide guidance to ISOP in a similar manner to how it can provide it to Ofgem. It ensures that the Government can effectively communicate to ISOP and Ofgem their strategic priorities and policy outcomes. These clauses therefore reflect the wording that applies in the strategy and policy statement to Ofgem as set out in the Energy Act 2013.

On Amendment 143, it would in our view be misguided to add to ISOP's responsibilities demonstrating its alignment with every policy outcome in the statement, particularly if the same duty does not necessarily apply to Ofgem. On Amendment 145, this is a government document and in our view it is for the Government alone to draft it and ensure that it is aligned with our policy priorities. The Government will use the statement, once it has been designated, as a tool to provide strategic focus to ISOP and to ensure that it is aligned with the strategic priorities of the Government's energy policy. There are no statutory obligations on the Government to set out assumptions or design methodology in the statement. Therefore, it would not be appropriate or necessary for ISOP to be obliged to opine on their appropriateness. However, ISOP will always have liberty to provide its views on the contents of the statement if it wishes or if we choose to ask it to.

I thank the noble Lord for his Amendment 148, which seeks to provide ISOP with the duty to make recommendations on updating the strategy and policy statement. As I have said, the strategy and policy statement is a government document which reflects the Government's own policy priorities. If ISOP deems it particularly important, it will always have the right to provide recommendations at its own discretion, but we do not think it appropriate to place a statutory duty on it. We think that is unnecessary and, in this case, inappropriate. It is therefore neither necessary nor suitable for ISOP to have a duty to provide its opinion on the content or timing of the next iteration of the strategy and policy statement.

It is also worth pointing out that Ofgem will have no such corresponding duty, and it would not be appropriate to impose a duty only on ISOP and not Ofgem, as the strategy and policy statement is meant to operate in the same way, effectively, for both of them. I welcome the noble Lord's contributions, which have allowed us to have a discussion on this issue, but I hope that, in this case, he feels able not to move his amendments.

Amendment 160 seeks to ensure that policy processes are aligned with the purpose set out in Amendment 6. In my view, it is unnecessary for two reasons. First, there are already provisions in the clause that do not just have regard to the outcomes the noble Lord is seeking but are in fact designed with those outcomes in mind. The buy-out mechanism has been designed to aid the removal of obligation thresholds under the energy company obligation scheme, which aims to address current market distortions in the retail energy market. This measure will lead to more energy suppliers becoming obligated, therefore spreading the cost of ECO among a greater number of domestic consumers. Secondly, the amendment would not have a practical effect. The ECO scheme was developed to meet various fuel poverty commitments and targets set out in the fuel poverty strategy for England. Again, I do not think that duplicating the existing obligations in this Bill serves any substantive purpose.

Therefore, given the reassurances I have been able to provide, I hope the noble Lord will feel able not to press his amendments.

Lord Teverson (LD): I thank the Minister for his response and reassurances. Obviously, I am fairly disappointed with the overall reply. On the principles of coherence and delivery, I will read what he has said and think about coming back to this issue on Report. I thank him for going through the Government's feelings on this issue in detail and may respond fully later during the passage of the Bill. In the meantime, I beg leave to withdraw my amendment.

Amendment 38 withdrawn.

House resumed.

6.36 pm

Sitting suspended.

Ukraine Update

Statement

7.30 pm

The Minister of State, Ministry of Defence (Baroness Goldie) (Con): My Lords, with the leave of the House, I wish to repeat a Statement made in the other place earlier today by my right honourable friend the Secretary of State for Defence, Mr Ben Wallace, with reference to Ukraine. The Statement is as follows:

"Since the House rose last, I wanted to update members of progress in Ukraine and UK support to date with it. On 29 August, Ukraine embarked on a counteroffensive in the south of the country around the city of Kherson on the west bank of the Dnipro river. As part of the shaping fires, Ukraine had inflicted serious damage on a range of river crossings with the aim of restricting Russian logistical support. This has had some considerable success. I can report to the House that the Ukrainian forces have made real progress, assaulting on three axes, and especially on the advance to the south of the city of Kryvyi Rih. The grinding fight in the Donbass continues, but with Russia making few substantive gains in the east over the last two months. Since June, Ukraine has struck more than 350 Russian command posts, ammo dumps, supply depots and other high-value targets far back from the front line. Many of these have been with longer-range weaponry supplied by international partners, including the United Kingdom.

As of today, the Ukrainian army is engaging with Russian forces using both artillery and brigade-level operations. It is making real gains but, understandably, as we have seen elsewhere in this conflict the fighting is close and hard, and Ukraine is suffering losses associated with an attacking force. My thoughts and the Government's thoughts are obviously with the men and women of the brave Ukrainian forces, who are fighting to uphold our values as well as theirs and defend their land.

However, Russia continues to lose significant equipment and personnel. It is estimated to date that over 25,000 Russian soldiers have lost their lives and in all—including those killed, casualties, the captured or the now-reported tens of thousands of deserters—over 80,000 are dead or injured or in these other categories. This will have a long-lasting impact on Russia's army and its future combat-effectiveness.

Russia has yet to achieve any of its strategic objectives. We are now on day 194 of what was envisaged in total to be a month-long campaign. I know members will be worried about reports about the Zaporizhzhia nuclear power plant, which is the biggest nuclear power station in Europe. On Friday 1 September, the United Nations International Atomic Energy Agency visited the plant accompanied by Russian media. No other international media were allowed to attend. Under the IAEA an inspection was carried out and it has left a team behind. It has already draw attention to the 'violation of its physical integrity' and the United Nations remains gravely concerned about the dangerous situation in and around the plant. We will continue to monitor it and ensure that we engage with Ukrainian partners to also ensure that no one's safety is put at risk.

Earlier in the month Turkey, Russia and United Nations came to an agreement on grain exports from Ukraine: the so-called Black Sea initiative was put in place. This has now seen over 2 million tonnes of grain exported, with another 100 ships waiting to embark grain from Ukraine's ports. I want to place on record the Government's thanks to both the United Nations and the Turkish authorities for facilitating this: it was no mean feat. We have offered the Turkish military any support it requires but, to date, the Turkish Government have not requested any support, but we do stand ready to do so.

The United Kingdom continues to gift military aid to help the Ukrainian armed forces resist the illegal invasion. Since the end of July, when this House rose, we have gifted a further three GMLRS M270 platforms and accompanying missiles. We are now working on an additional package of support. The total funding committed to this support is £2.3 billion.

In June, I recognised that training is as important as military hardware, which is why we have embarked on establishing a network of training camps in the UK to train 10,000 Ukrainians. This was accompanied by specialist armed training across a number of countries in Europe. So far, we have trained 4,700, and I am delighted that over the summer we were joined by forces from Sweden, Finland, Denmark, Lithuania, Canada, Holland and New Zealand, who are all now in place alongside British military personnel delivering that training. The training cycle is now in its third iteration and, after lessons learned, we have now extended it to a five-week syllabus. We are already seeing this make a difference to the combat effectiveness of Ukraine, and we are evolving the course and feedback to make sure that the experiences do exactly what the Ukrainians need.

But support for Ukraine goes beyond the here and now. Being able to plan for the medium and long term requires international funding. So, at the beginning of August at the invitation of our Danish friends in the Danish Government, I co-chaired with them a conference in Copenhagen. So far, we have amassed pledges of up to €420 million of support, including those to be delivered through an international fund for Ukraine. We are working through the governance of this fund with our international partners, and we hope to add to it when I present more details this week to the Ukraine defence contact group convened by the United States in Germany on Thursday. This fund will be used to hopefully support a range of measures, including ammunition production, to ensure that there is a sustainable supply over the long term in Ukraine.

I place on record my appreciation to the Prime Minister for his enduring support for Ukraine throughout this process, without which a lot of this would not have been possible. I am grateful, too, for all the support of the parties across this House for the action we have taken. This allows us to lead on the world stage with a determination and focus on all the things that are right about Ukraine's defence from an illegal invasion and on the fact that we share such common values of freedom, respect for sovereignty and the international rule of law. I hope all of us in this House do so—I know from experience that we do. This

[Baroness Goldie]
Government's commitment to Ukraine remains unwavering and is enduring, and I commend this Statement to the House."

7.38 pm

Lord Coaker (Lab): My Lords, I welcome the Statement from the Government today on the situation in Ukraine. It gives us the opportunity to restate, as my right honourable friend the shadow Defence Secretary did earlier in the other place, our united and continued support for the government effort to help Ukraine stand up to Russian aggression. It is a fundamental principle that we are standing for together with Ukraine—namely, that aggressors cannot be allowed to redraw international boundaries or borders by force.

On behalf of Her Majesty's Opposition, I reiterate that we stand ready to work—again, as my right honourable friend the shadow Defence Secretary said in the other place—with the new Prime Minister and the Defence Secretary. We hope he keeps his post, and that the noble Baroness the Minister does so too. We will do all we can together to support Ukraine, because its fight is our fight.

The Statement today says that a network of training camps has been established across the UK with the aim of training 10,000 Ukrainians, which we support. Can the Minister say what the timeframe for this training is? Do the Government plan to increase the numbers we can and will train? Will the training be extended beyond the basic soldiering skills which are currently covered?

We welcome the continued military aid being given to Ukraine in terms of equipment, in particular the extra-long-range missiles and unmanned air systems. Are we able to meet the demand for these weapons with our NATO allies? Are we also able to replenish the domestic stockpiles that we have, and has the replacement of the NLAWs now started? Further, is the provision of this equipment designed to help the Ukrainians hold current ground or take back territory from the Russians? In other words, what strategy underpins our provision of this military equipment?

Western and NATO unity is essential in the face of Russian aggression. Critical to the maintenance of this unity is the ability of Governments to communicate the threat to their populations effectively given the difficulties their country faces. How do the Government intend to do this? Does the Minister agree that we are entering a critical new stage, with the conflict potentially at a new point? With Ukraine hitting ammunition dumps, airfields in Russian territory and command posts, Putin appears to be under increasing military pressure, and there are reports that he may well step up efforts to persuade the West to lean on Ukraine to agree to a ceasefire and to negotiations. What will we do to counter such activities, and can the Minister give us an update on NATO, European and western unity in the face of this?

What are the Government doing to explain that the energy crisis and supply chain disruption that we have seen are not a result of Russia's war but an essential part of it? What will we do to help people through this cost of living crisis, and is the MoD talking to the Home Secretary about the continuation of the Homes for Ukraine scheme? How successful have we been with Turkey in ensuring that the additional 100 ships that the Minister mentioned which are waiting to leave Ukraine and ports in the Baltic Sea can leave? Can the Minister give us any update on when that might occur?

The Defence Secretary now appears to be using arguments that we have been making, saying at the end of the Tory leadership campaign that there are plans to update the integrated defence review, reconsider the shape of the Armed Forces and increase defence spending as a result of events in Europe. In the light of that and the lessons of the Ukraine conflict, when can we expect the stopping of the cuts to Army numbers of 10,000? That would be a great start to any independent review. Can the Minister give us any insight into when the update of the integrated review may take place?

Finally, notwithstanding the points and questions that I and others have made, we all want Ukraine with our support to succeed. It is testament to its determination, heroic bravery and determination that, with the help of the UK and our allies, it has withstood Russian aggression for over six months. Russia needs to know that we too are in this for the long haul if necessary, and together we will not waver from standing beside Ukraine in defence of the principles of freedom and democracy.

Lord Newby (LD): My Lords, I too thank the noble Baroness for repeating the Statement.

Since we rose for the Summer Recess, the Ukrainian army has had some very significant successes and appears to be making extremely good use of the resources which we and our allies are providing it with.

We on these Benches, like the Opposition, remain supportive of the stance which the Government have taken in supporting the Ukrainian Government, and we welcome the initiatives that the Secretary of State has outlined in the Statement. I have just a few questions.

First, on Zaporizhzhia, the UN is quoted in the Statement as being concerned about the dangerous situation which still obtains there. In the light of that—presumably the UK Government agree with that assessment—what scenario planning has been undertaken to look at the potential fallout, literally, of a major nuclear release at Zaporizhzhia, which is by no means impossible?

On the gifting of military equipment, there will come a point—in some areas, we have probably reached it—when we have gifted all the equipment we have or cannot gift any more without our own capabilities being too far eroded. Can the Minister confirm that new orders are being placed to replace donated stock and/or produce new equipment which we can then simply gift directly from the factory to the Ukrainian army?

Training is one of the most commendable aspects of the work we have done, not least because we have been able to add a considerable amount of capacity at a very modest cost. I echo the questions asked by the noble Lord, Lord Coaker, on the future plans for this scheme in terms of both the number of soldiers involved and its scope. Is any training involving the Ukrainian air force and navy currently being undertaken or planned?

I want to ask about the scope of the international support fund. Is it limited, as I suspect it is, to arms and military supplies or does it extend to the concept of a broader Marshall plan for the reconstruction of Ukraine? We are going to need that at some point; I just wonder whether this initiative will form the nucleus of such a broader scheme.

It was reported in the *FT* today that the EU is to hold a summit of European states next month to build regional co-operation in the face of Russian aggression, and that the UK has been invited to participate. Can the Minister tell us whether the UK has indeed received such an invitation and, if so, whether it has responded to it? If the answer to the latter part of the question is no, I ask the Minister to urge her colleagues—not least the new Prime Minister—that it is crucial that the UK is represented at any such event so that we can both demonstrate the maximum degree of European unity on the issue and ensure that the UK exercises the maximum influence on the co-ordinated European response.

Finally, I want to ask a couple of questions about refugees. I accept that they may be beyond the Minister's immediate remit but perhaps she could write to me if she cannot answer them. First, what is the Government's plan for further support for Ukrainian refugees here once we have passed the six-month point? Secondly, how long do the Government envisage the scheme being open? At what point do they envisage themselves saying that the situation in Ukraine is stable enough for the scheme to end? Thirdly, what plans do the Government have to expand the support that British universities are giving to students from Ukraine, particularly in technical subjects such as medicine where, again, as with the basic military training, a small amount of expenditure could yield significant results for Ukraine's future prospects?

Baroness Goldie (Con): My Lords, first, I thank the noble Lords, Lord Coaker and Lord Newby, for the tenor of their introductory remarks, which was welcome; I particularly thank them for their kind remarks in relation to me. As I have said before—my right honourable friend the Secretary of State echoed this today in the other place—the force and cogency with which the UK has been able to assist Ukraine have been helped enormously by political unanimity in Westminster. It has sent a very strong message, not just to friends and allies but to Mr Putin, that in the UK there is absolutely united resolve at the political level to deal with and address this evil, and not just to talk about it but to put our money where our mouth is and provide substantive help. I am grateful to both noble Lords for their positive comments.

The noble Lord, Lord Coaker, raised the issue of training and the timeframe, as was echoed by the noble Lord, Lord Newby. Although we have planned with an initial training programme of 10,000 Ukrainian personnel, my right honourable friend the Secretary of State indicated today in the other place that this support will, frankly, be provided for as long as it is needed. I think we all understand that this training is having a hugely positive impact on both the morale and the capacity and capability of the Ukrainian armed forces to deal with this threat within their country. We are under no illusions about the support that we can give on the training front, and so we accept that we are not putting a timeframe on it. We will rely on Ukraine to tell us what it needs and how many people it can present for training. We can have all the capacity and capability, but we need the Ukrainian armed forces to present people for training.

The noble Lord, Lord Newby, asked about numbers. The Statement referred to the numbers that we have been training and hope to train. My understanding is that we plan to provide up to 1,050 UK service personnel to facilitate the training of the Ukrainian armed forces.

The noble Lord, Lord Coaker, raised the matter of whether we can meet the demand for weapons and asked what we are doing about replacement. These are very pertinent questions. We have been meeting demand. Again, we are liaising daily with the Ukrainian Government. As the noble Lord will be aware, we had significant stockpiles, some of which contained weapons that were not in the first flush of youth, but that did not mean that they were not still effective and useful. We have been able to draw on these stockpiles. The pertinent question then is whether we come to a point of replacement. The answer is twofold. Yes, we do, but we have made sure that at no time have we compromised the UK's ability to defend itself and address its own national security needs, and we have been in regular consultation with industry and signalled that we anticipate approaching it with orders and that they should be getting their houses in order to ensure that they are able to deal with the supply of whatever that request may be.

The noble Lord, Lord Coaker, asked about our strategy for supporting Ukraine. We all acknowledge that the character of the conflict has changed since it started, many months ago. It has perhaps moved on from being purely defensive to us now seeing Ukraine with an appetite to be offensive in trying to recover territory. Our strategy is that we constantly liaise with the Ukrainian Government, as we do with our military allies and partners, to assess what we can do to support Ukraine in what it thinks it needs at this time in the conflict. It is quite difficult to say with any precision what we might be doing at the end of this month or at the end of November because it depends on the fluidity of the conflict. As for the resolve, the commitment and the determination of the United Kingdom and our friends and allies to support Ukraine, let there be no doubt that it is rock-solid.

The noble Lord, Lord Coaker, asked about NATO and European unity, which I would say is positive and strong. The noble Lord, Lord Newby, asked particularly about the EU summit, which I will come to. We have had a very good relationship with the EU, which has been cemented by the universal recognition that, when you are confronted with a threat such as Russia's illegal invasion of a sovereign country, nobody is safe. Everybody understands the mutuality of that threat and the need to stand shoulder to shoulder and agree on how to address that threat and how to support Ukraine in resisting this illegal invasion.

The noble Lord, Lord Coaker, very articulately encapsulated that the energy crisis is caused by Putin. That is a message that must repeatedly be got out. The

[Baroness Goldie]
problems that we are all confronted by, not just in this country but across the globe, on energy prices, inflation and escalating food prices have been created by Putin.

We are doing everything we can to help to mitigate the effects of that, and that is partly what we are doing to assist Ukraine. President Putin is now finding that his war in Ukraine is a very expensive, distracting and damaging exercise for him and his country. That is partly to do with what we and our allies and partners are doing to support Ukraine, the effect of sanctions and the miscalculation that he made about the reaction to this invasion. He thought that this was some kind of little local incursion that he could make into a country that he took a fancy to, and he had absolutely no realisation of the global impact of his illegal activity. We are doing everything we can to help.

I cannot pre-empt what the new Prime Minister may wish to announce in relation to trying to alleviate the very corrosive impact of these prices on ordinary families in the United Kingdom, but all the indications are that the Prime Minister intends to make an announcement. I anticipate that the Government will come forward with specific plans to provide help.

There was another question about when the grain ships will leave. I do not have specific information about that, other than what is already in the Statement. Again, that is a fluid situation. When the ships can get in and be loaded, they will leave.

The noble Lord, Lord Coaker, asked specifically about the integrated review and the cuts to the Army. I repeat what my right honourable friend said in the other place: the integrated review, which we all know is a substantial piece of work, absolutely correctly identified the main threat—it is Russia. It has been confirmed sharply that the integrated review was right in that analysis.

On the cuts to the Army, as the Secretary of State has repeatedly indicated, it is always a difficult question within defence, when you look at the overall capability, to determine what you will do with money if you get it or get more of it. He summed it up very neatly today when he said that, if you get more resource, you need to look at how to make the Armed Forces less vulnerable. There may be a variety of ways to do that.

I would like to echo the final sentiment of the noble Lord, Lord Coaker, who said that it is absolutely critical that all of us who are minded to stand shoulder to shoulder with Ukraine, whether as political parties of the UK or nation states who are partners and friends, stand firm. The noble Lord is absolutely correct. That must happen, and we must not allow a cigarette paper to filter between us.

The noble Lord, Lord Coaker, asked about the nuclear plant at Zaporizhzhia. The inspection has been very recent, and we are awaiting further information. It will then be easier to make an assessment of the situation and what response, if any, should be made.

On the reconstruction of Ukraine, we all wish we had a crystal ball. We do not know what lies ahead, but we know that there is a concerted view that Ukraine will need help with that reconstruction. It is premature to discuss it now, but we will certainly look at it when the time is appropriate.

I am unable to answer whether the United Kingdom has been invited to the EU summit about rebuilding Ukraine—it is a bit wide of my remit. I can certainly make inquiries and write to the noble Lord.

Finally, the noble Lord had a number of questions about refugees. Again, these are outwith my particular ministerial remit, but I have made of note of them. I shall look at *Hansard* and see if we can provide some response.

7.58 pm

Lord Berkeley (Lab): My Lords, the noble Baroness gave a wonderful summary of where the Government have got to. I want to look at the grain export issue. I congratulate the Government on what they are doing in helping to open up the Black Sea. The noble Baroness will know that I have been involved in an international task force to improve the volume of grain exported by rail, but the Black Sea is the answer.

I met some friends from Romania in the summer. They said that so many mines were being washed up in the Black Sea, at Constanţa and the coast nearby—Russian ones that have lost their tether—that people are forbidden to go into the sea. Are the Government or their allies doing anything to minesweep a channel? We do not want any of these ships—and the more there are the better—to hit mines and be damaged.

Baroness Goldie (Con): That is a very important question. As the noble Lord will be aware, we do not have Royal Navy deployment in the Black Sea, but I understand that we have been amenable to providing training on countermine measures and have offered support to Turkey if Turkey would find that helpful. As the noble Lord will be aware, Turkey has deployed the Montreux convention and therefore there is very restricted activity. However, I reassure the noble Lord that if help is required by Turkey and advice and help are sought from the UK, we will look at that very sympathetically.

Viscount Trenchard (Con): My Lords, first, I thank the Minister for repeating the Statement. Secondly, I was delighted by the supportive stance taken by the noble Lords, Lord Coaker and Lord Newby. I think it is right that in his final day of office the Prime Minister should be acknowledged for his robust support and swift response to Russia's illegal invasion of Ukraine and his leadership of the western world in the strong and continued response and resistance to the Russian invasion. Can the Minister tell the House how effective she thinks the sanctions on the Russian regime are? Are they effective or not?

Baroness Goldie (Con): We understand that the sanctions imposed by the UK and our international partners are having deep and damaging consequences for Putin's ability to wage war. We have sanctioned more than 1,100 individuals and 100 entities and, with our allies, have frozen around £275 billion-worth of assets. That includes oligarchs worth £117 billion. We have also announced new sanctions on Kremlin-imposed officials in the so-called Donetsk and Luhansk people's republics. Russia's GDP is expected to contract by

3.5% to 8.5% in 2022, but that is compared to a pre-invasion forecast of 2.8% growth. By 2026, Russia's economy is expected to be 16% smaller versus the pre-invasion trend estimated by the International Monetary Fund. There is evidence that it is hitting Putin hard. Much more problematic is to know whether the message is reaching ordinary Russian people. There is evidence to suggest that, sadly, they are now beginning to experience the hardship of the consequences of Putin's illegal war. It may be that with that, coupled with the tragic deaths of and injuries to the loved ones and relatives of many people and families in Russia, they may now be beginning to pose the question: what is this about and why are we doing it?

Lord Browne of Ladyton (Lab): My Lords, looking slightly beyond now and the immediate future, what assessment have the Government made of the fact that on 25 August, the day after Putin's chief of defence acknowledged that the Russian military campaign had stalled, President Putin signed a decree, which will come into effect on 1 January 2023, increasing the size of his country's combat forces by 137,000 people? That brings Russian combat personnel to 1.15 million people. If we take into account that Ukraine has set itself the target of a 1 million-strong military, what are the implications for the strategic stability of the part of the world that we are a key part of? What assessment have the Government made of this significant development?

Baroness Goldie (Con): It may be that Putin passes a law or makes a decree, but we have seen that the mass and volume of his armed forces numbers have not delivered for him the military triumph that he clearly anticipated was within his grasp when he embarked upon this illegal war. As the noble Lord will be aware, various reasons are hypothesised for that: many of these troops were untrained, many were provided with equipment not fit for purpose, and there seems to have been an absence of overall strategic command. So there are inherent weaknesses within the fundamental operational capacity of the Russian military. That has become evident as Ukraine has embarked on its activity to defend the country and seek to call Putin to account.

The noble Lord is right that these levels of activity are alarming but we must not be distracted and we must never lose sight of the fact that something wrong, illegal and dangerous has happened; somehow, we and our like-minded friends and allies have to respond to that by helping Ukraine. The gift that Putin would wish for is to think that anyone is getting bored or fed up or is now taking this all for granted. We are not—this country is not doing that, and neither are our European and NATO partners. We are resolved to stand shoulder to shoulder with Ukraine and do whatever it takes to assist in bringing this illegal invasion to an end.

Lord Robathan (Con): My Lords, sanctions, as we know, are a very blunt instrument and, indeed, a double-edged sword—they harm those imposing the sanctions as well as those subject to them—but, as my noble friend said, they appear to be working in Russia; they are certainly reducing economic activity and, God willing, they will have a significant effect on the Russian economy. However, we hear from some of our European allies that they are less than enthused by the sanctions. In particular, Signor Salvini, who may easily be in government in Italy before the end of this month, yesterday called for an end to sanctions. Can my noble friend reassure me that our European allies will continue to be steadfast in backing continuing sanctions as part of the great unity that we wish to continue to see?

Baroness Goldie (Con): In the course of responding to the conflict in Ukraine we have been encouraged by the attitude and decisions of our friends within the EU. Very constructive measures have been taken and there has been a manifest level of co-operation and recognition of what I said earlier—that this is a threat that affects us all. It may be that an individual political leader in an individual European country has reservations about sanctions. It is for the other countries, whether inside or outwith the EU, to explain that the evidence is there that sanctions work and are beginning to bite Putin where it matters. That is a very powerful argument to advance.

Viscount Stansgate (Lab): My Lords, I thank the Minister for reading the Statement, not least because the situation in Ukraine has such direct relevance to the energy crisis being faced by millions of people in Britain today. I have two brief questions: first, in relation to longer-range missiles and the Minister's own reference to offensive operations, are the Government confident that these cannot be fired either deliberately or accidentally into the territory of Russia itself? Secondly, in respect of the International Atomic Energy Agency visit, I am sure the Minister will agree that it has an extremely important job of work to do, but can the United Kingdom use its position as a permanent member of the Security Council to ensure that a report on the situation at that nuclear plant is available and discussed at the Security Council because it has such relevance to the global community?

Baroness Goldie (Con): If I may, I will take the noble Viscount's second question first. As I indicated to the noble Lord, Lord Newby, we are in the early days of understanding what the inspection has gleaned. I think there will be a recognition by the United Nations that there is universal interest in understanding what has happened at that plant. Therefore, again, it is somewhat outwith my ministerial sphere of responsibility, but I would be very surprised if the FCDO is not actively engaging with the United Nations to understand more about the inspection and what might ultimately be disclosed on that front.

In relation to the supply of weapons by the UK to Ukraine and what they are used for, we have made it clear that they must be used in conformity with international law. That includes using them within Ukraine for the defence of the country. Defending the country and using the weapons within Ukraine may be offensive in nature because that may be aimed at activity engaged in by Russian forces but still within Ukraine, but we require that Ukraine operates within international humanitarian law and international law, and that is understood.

Lord Hylton (CB): My Lords, I was glad to hear that the Statement gave quite a bit of space to the very important agreement on the export of Ukrainian grain and oilseeds. This is the first sign of a slight concession on the part of Russia. It is also of extreme importance to some of the poorest people in the Middle East and north Africa, including some of those living in refugee camps or displaced people.

Can the Minister confirm the figure given in the Statement of 2 million tonnes already exported and apparently having reached their destinations? Of course this is only a small proportion of the total foodstuffs in store in Ukraine—maybe 10%—so it is still extremely important. Can she tell us anything about the current 2022 harvest in Ukraine? How badly has it been affected by the fighting? Is it being successfully stored?

I repeat what I have mentioned previously: we should not just settle and plan for a long drawn-out war. Anything that can be done to shorten it must be done. Are the Government therefore working to make the maximum use of the possible and available channels of communication, including through our diplomatic staff in Russia?

Baroness Goldie (Con): On the specific question about the 2 million tonnes of grain, I do not have information as to where that has gone or which countries have received it. I can undertake to make inquiries and if an answer is forthcoming, I shall write to the noble Lord.

He is quite right that the consequence of all this is impacting desperately on the poorer countries of the world. It may be a considerable time before there is a manifest expansion of the grain exports that would both provide food to sources that need it and reduce the price and cost of the food supply. That may take a little time.

In the meantime, we as a country have produced £372 million pounds for the countries most impacted by rising global food prices, which was announced at the Commonwealth Heads of Government Meeting in June. The UK and partners also secured the largest ever World Bank financial commitment of $170 billion for low-income countries around the world. That is supporting countries facing economic hardship as a result of Russia's invasion of Ukraine.

On the final point, this war is going, I am afraid, to be a protracted affair. At the end of the day, how it unfolds and what the consequences are will very much depend on Ukraine's decisions about what Ukraine wants to do. That is not for others to interfere in. They must come to their own view, when they think they can, as to what options are available to them.

On the final question about communications with Russia, it is very difficult to maintain diplomatic relations with a country which has behaved as appallingly as Russia has. What I can say to the noble Lord is that at defence level, MoD maintains communication with the Russian MoD to try to ensure that we understand the escalation and implications of any military activity. At that level there is engagement, but I am afraid that diplomatic engagement in the current situation is almost impossible to contemplate.

Baroness Bennett of Manor Castle (GP): My Lords, I return to the section of the Statement referring to the Zaporizhzhia nuclear power plant, particularly the final part of that section which says that we will

"engage with Ukrainians to ensure no one's safety is put at risk".

Given that Reuters was reporting a couple of hours ago that the Ukrainian energy authority has just confirmed reports from the weekend that the sixth reactor has again been disconnected from the grid, due to the destruction of power lines, I do not really believe that the Government can say that they can ensure that no one's safety will be put at risk. None the less, the Statement talks about engaging with the Ukrainians on this issue. Can the noble Baroness assure me that all possible diplomatic pressures are being used on the Russians to seek to push towards the demilitarisation and safe restoration of that area? In light of the fact that Ukraine is distributing iodine tablets to its population around the nuclear plant, are the Government working with the Inter-Agency Committee on Radiological and Nuclear Emergencies to ensure that international preparations, should the worst happen, are at the absolute highest level they could possibly be?

Baroness Goldie (Con): Again, I say to the noble Baroness that is somewhat out of my ministerial sphere but I am very sympathetic to her concerns. The Statement said that we will do our best to monitor what is happening; we will certainly engage with Ukrainian partners to understand what is going on. As I said to the noble Lords, Lord Newby and Lord Hylton, it is now very much a matter for the International Atomic Energy Authority to consider what it has found and what its recommendations are. It would be sensible for this country to work with other partners within the United Nations on that front. As the noble Viscount, Lord Stansgate, pointed out, these are serious issues. At the end of the day, we will work better in co-operation with the United Nations in trying to understand what is happening.

House adjourned at 8.17 pm.

Grand Committee

Monday 5 September 2022

Arrangement of Business

Announcement

3.45 pm

The Deputy Chairman of Committees (Baroness McIntosh of Hudnall) (Lab): My Lords, forgive me. It may be entirely apparent to the Committee that we are missing an Opposition Front-Bench spokesperson at the moment. We have search parties out and I hope that our colleague will appear in due course. In the event that he does not, we will proceed. "In due course" means "in a minute", by the way.

Sitting suspended.

3.48 pm

The Deputy Chairman of Committees (Baroness McIntosh of Hudnall) (Lab): My Lords, good afternoon. I think we are all now present and correct and can begin.

Flags (Northern Ireland) (Amendment) (No. 2) Regulations 2022

Considered in Grand Committee

3.48 pm

Moved by ***Lord Caine***

That the Grand Committee do consider the Flags (Northern Ireland) (Amendment) (No. 2) Regulations 2022.

Relevant documents: 6th Report from the Secondary Legislation Scrutiny Committee

The Parliamentary Under-Secretary of State, Northern Ireland Office (Lord Caine) (Con): My Lords, the regulations before your Lordships today seek to align flag-flying days in Northern Ireland with the rest of our United Kingdom. As many noble Lords will be aware, the Flags Regulations (Northern Ireland) 2000, introduced by the noble Lord, Lord Mandelson, for the then Labour Government, provided that, on certain designated days, the union flag and in certain circumstances other flags must—I repeat, must—be flown on government buildings.

For the purposes of these regulations, a Northern Ireland government building is a building wholly or mainly occupied by members of the Northern Ireland Civil Service. The 2000 regulations also set out a number of "specified buildings" at which the union flag must be flown on the designated days in question. These buildings were chosen as they were the headquarters of Northern Ireland government departments. In 2002, the provisions were extended to court buildings in Northern Ireland.

Noble Lords will also recall that the *New Decade, New Approach* agreement in January 2020, which saw the restoration of devolved government in Northern Ireland after a period of almost three years, contained a UK government commitment to:

"Update the Flags Regulations (Northern Ireland) 2000 to bring the list of designated flag flying days from Northern Ireland government buildings and court-houses into line with the DCMS designated days, meaning the same designated days will be observed in Northern Ireland as in the rest of the UK".

The updated 2022 list of designated flag-flying days was published by DCMS on 11 February this year, and it states that Her Majesty the Queen's two birthdays and the birthday of His Royal Highness the Prince of Wales are the only royal birthdays to be observed for the purposes of flag flying. The regulations before your Lordships today will ensure that flag flying in Northern Ireland is aligned with this updated DCMS guidance and the policy followed across the rest of the UK. Prior to publishing the list of designated days, DCMS consulted a wide range of interested parties, individuals and bodies. I can confirm that the updated designated days reflect very clearly the wishes of the palace; the Committee should take note of that.

I understand that some Members will be disappointed that the number of designated flag-flying days in Northern Ireland will be reduced as a consequence of these regulations. I stress that our approach to flag flying in Northern Ireland through regulations has consistently sought to reflect Northern Ireland's clear constitutional status as an integral part of the United Kingdom, as well as the reality of different political aspirations and sensitivities that exist across society.

I also point out that, as designated days are a matter of law in Northern Ireland, revised regulations must be considered by the Assembly ahead of being approved by both Houses of Parliament here in Westminster. I can inform noble Lords that, ahead of the most recent Northern Ireland Assembly election, Members of the Northern Ireland Assembly considered and approved these regulations on 15 March this year.

The 2000 flags order also requires that consideration be given by the Secretary of State for Northern Ireland to the Belfast agreement when making or amending flags regulations. I confirm that the Secretary of State is satisfied that these regulations are in accordance with the provisions of the Belfast agreement and that the regulations treat flags and emblems in a manner respectful of Northern Ireland's particular circumstances.

The Government will continue to ensure that our approach to flag flying reflects the sovereignty of the United Kingdom in Northern Ireland, our Belfast agreement commitments and the need for sensitivity. On that note, I look forward to contributions from noble Lords today but commend this largely technical instrument to the Committee. I beg to move.

Lord Murphy of Torfaen (Lab): My Lords, I apologise for delaying the Committee for some minutes. I completely abandoned my toasted teacake to get here very quickly; I had mistaken the time.

The Minister is right that it is a technical change, of course, but it reflects the significance of flags in Northern Ireland. This was a cause of great bewilderment to me when I first went there so many years ago—25 or 30 years ago—including the fact that one saw the Palestinian and Israeli flags: the Israeli flag generally in loyalist areas and the Palestinian one generally in nationalist areas. It reflects identity, not as Palestinians and Israelis—those are political choices—but rather the identity of people as they see themselves.

[Lord Murphy of Torfaen]

The law is clear. The flags to be flown on public buildings are flown on them because those buildings are part of the United Kingdom. Clearly, if the rules change in Great Britain, they should change in Northern Ireland as well.

It is quite interesting to read the Assembly's proceedings on this particular statutory instrument. It was, as always, an intriguing and interesting debate that reflected the wider view on flags in Northern Ireland.

On balance, the issue has been dealt with sensitively over the last two decades, but there have been some notable exceptions, such as over Belfast City Hall some years ago, which caused a great deal of fuss. You have to be very careful in what you do about flags. It is pretty clear that this particular change was initiated by the palace. Noble Lords will ask why for themselves—I think it is pretty self-evident—but the commemoration of the birthdays of all the royals has had to be abandoned on the flagpoles of Northern Ireland as a consequence of what I think this change resulted from. The essence of this is that what happens in Britain happens in Northern Ireland as long as it remains part of the United Kingdom. Even if it did not, it would still have to have sensitivity about flags. However, it is still part of the United Kingdom, so I support the statutory instrument.

Baroness Suttie (LD): My Lords, as the noble Lord, Lord Murphy, just said, flags are a highly sensitive issue in Northern Ireland that can provoke very strong reactions. However, I shall be very brief, as the Liberal Democrats, and indeed Alliance in Northern Ireland, broadly support these measures, which reduce the allocation of designated days and align them with the rest of the United Kingdom, as the noble Lord, Lord Murphy, said.

Given that these regulations once again reduce rather than add to the number of designated days, could the Minister say whether further consideration has been given to adding to the number of days through commemorating the Battle of the Somme? As the Minister will know, when these regulations were debated in the Northern Ireland Assembly in March this year, my Alliance colleague, Andrew Muir, suggested making the anniversary of the Battle of the Somme a designated day. He then followed up with a letter to DCMS. This was strongly supported in Belfast City Hall, where earlier this year the birthday of Prince Andrew was substituted with the anniversary of the Battle of the Somme as a designated flag day.

As noble Lords will know, it is estimated that at least 3,500 lives were lost from across the island of Ireland during the Battle of the Somme from the 36th (Ulster) Division and the 16th (Irish) Division. Can the Minister update us on whether further consideration has been given to this matter?

In seeking to support the Government today, it is vital to continue to stress the importance of respect, and of respecting how people feel about a flag and its symbolism, even if one does not entirely personally share or understand those sentiments.

Baroness Ritchie of Downpatrick (Lab): My Lords, I thank the Minister for providing us with an overview of the legislation. Like my noble friend Lord Murphy and the noble Baroness, Lady Suttie, I agree with and do not resile from the regulations. We can all have our own interpretation as to why they have been proposed.

There is a broader political point here, which my noble friend and the noble Baroness referred to, about the nature of flags in Northern Ireland. They are highly sensitive and mark out territory. Over the last few months, having had occasion to be at home permanently for some six and a half weeks, I have seen flags of all descriptions, representing two identities, in tatters on poles. If people had respect for their own identity and that of others, they would not allow that to happen. It does not necessarily happen solely with flags—it also happens with flagstones and kerbs—and it leaves the area environmentally in a pretty poor state.

We need to look to fulfil the ambition of the Good Friday agreement in respect of flags and identity through building the second process of the agreement, the healing and reconciliation process. I say to the Minister: with a new Prime Minister and a new Cabinet this week, will the Government work with the Northern Ireland Executive—if we had one—to ensure that we do have one, and to ensure that we have all the institutions of government of the Good Friday agreement and the Northern Ireland Act 1998 up and running? Will they also work with the district councils to ensure that there is parity of esteem, respect for political difference and respect for all flags, and that this is done in a more sensitive, more appreciative way that reflects all the identities that have to be reflected?

4 pm

Generally, Northern Ireland is a changing area, as is the island of Ireland. No longer can you talk of one and the other. Other nationalities have come to live there and their identities also have to be respected. The Good Friday agreement provided for that under the equality and human rights provisions. What respect and judgments have the Government given to that?

Finally, what proposals will be made for all-party talks involving both Governments to get the institutions up and running and to resolve the difficulties around the protocol and any other impediments to political institutions? The most important thing for people is having a functioning Government and dealing with the cost of living and the cost of doing business crises. Energy and food prices are immediate to people and are perhaps more important than flags at this moment.

Lord Hannan of Kingsclere (Con): My Lords, I had not planned to participate, but I give my full-throated support to what the noble Baroness, Lady Suttie, suggested. Not only is the Somme important in the iconography and history of the 36th (Ulster) Division, but it is often forgotten that more southern Irish Catholics died in British uniform during the Somme offensive than participated in the Easter Rising. That fact was for a long time brushed under the carpet. One of the more welcome signs of the approximation of the Governments in these islands is that those volunteers—they were all volunteers in Ireland—were eventually brought in and recognised, albeit long after the event.

It is a grisly memorial and a rather awful thing that we remember—the whole history of the world cannot contain a more horrible word, as one German veteran said. Yet it is something we all have in common in these islands, including me. I have a great-uncle whose name is carved on the rather skeletal memorial at Thiepval. Here is a suggestion with cross-community support and broad support in this House and in another place. It is something that I hope my noble friend the Minister will consider taking forward.

Lord Caine (Con): My Lords, I am extremely grateful to noble Lords who have participated in this short debate on the instrument before us. I shall respond to one or two of the points raised.

I am very grateful that the noble Lord, Lord Murphy, managed to abandon his toasted teacake and get here in time to participate. I hope he can return to it, or a warmed-up version, at some point later this afternoon. He mentioned that the issue of flags is very sensitive, as did the noble Baronesses, Lady Suttie and Lady Ritchie of Downpatrick. Of course, we all know why that is the case. I commend the initiative of the Labour Government back in 2000 in grappling with this issue, which was seen as rather too difficult for the Northern Ireland Executive and the Northern Ireland Assembly to resolve. As a consequence of their actions and those taken subsequently by this Government, we are in a much better place when it comes to the flying of flags from government buildings and there is a wide degree of consensus.

The noble Lord is right to remind the Committee of the difficulties that can arise, and I am well aware of what happened in Belfast from late 2012 well into 2013 with the decision on the flying of the union flag. The noble Baroness, Lady Ritchie, asked whether we had worked with councils. We have, of course, but, as she is aware, flag flying from council buildings is not covered by the regulations but is a matter for district councils themselves. I will reflect on her suggestion.

The noble Baroness, Lady Suttie, referred to the possibility of making 1 July, the anniversary of the first day of the Battle of the Somme, a designated day, and I have a great deal of sympathy with what she said. My noble friend Lord Hannan was very supportive. I have visited the Somme battlefield probably 11 or 12 times in the course of the past 12 years. I was there for the centenary in 2016, at the Lutyens memorial to the missing and the Ulster tower, and later in September that year. As my noble friend reminded us—it should never be forgotten—the contribution of the 36th (Ulster) Division on 1 July was heroic, as was the contribution of the 16th (Irish) Division in September 1916 at Guillemont and Ginchy. For those who have never visited, it is always a very moving occasion.

My noble friend talked about the number of southern Irishmen who gave their lives. When I was there last July, I managed to locate the inscription of a former Member of the other place, Tom Kettle, the MP for East Tyrone, whose name is one of the 72,000 on the Lutyens memorial. I think something like four out of the nine Victoria Crosses awarded at the Somme went to members of the 36th (Ulster) Division, so I am aware of its importance and resonance across Northern Ireland and the wider island of Ireland. In response to that specific request, I am very happy to take it up with DCMS, which I know regularly consults on the designated days. My personal view is that it is a very worthwhile suggestion.

The noble Baroness, Lady Ritchie of Downpatrick, asked about executive formation and so on. Of course, I am not yet in a position to second-guess what steps the new Prime Minister might take from tomorrow, and we are in a slight state of flux over the next 24 hours, but I am confident that the new Prime Minister and whoever might be the Secretary of State, whether it continues to be the current holder or it is a new appointment, will remain very committed to working as a matter of urgency to deal with problems around the protocol but also the impasse preventing the re-establishment and reformation of a Northern Ireland Executive.

None of us wishes to be in this situation. We all want to see the institutions established by the Belfast/Good Friday agreement fully functioning and up and running. On these occasions I always look to the noble Lord, Lord Murphy, who played such a key role in the negotiations, particularly on strand 1 of that agreement, back in 1998. It is my personal commitment and the Government's that we wish to see devolved power-sharing government and the institutions that flow from that. We should never forget that strands 2 and 3 of the agreement do not function properly without strand 1. To get all the strands of that interlocking agreement back up and running will remain an absolute priority for Her Majesty's Government.

The noble Baroness talked about parity of esteem in flag flying. These regulations deal only with the flying of flags from government buildings and, as I said in my opening remarks, they reflect the clear constitutional position of Northern Ireland as part of the United Kingdom. The agreement contains provisions on parity of esteem, but it is always sensible to remember that it never created a hybrid state; Northern Ireland is either part of the United Kingdom or part of a united Ireland, and I am very happy to say that it continues to be part of the United Kingdom of Great Britain and Northern Ireland. There is always the need for sensitivity when it comes to such issues, and I hope that I reflected that in my opening comments.

This is a technical change that reflects the updated list published earlier this year by DCMS after consultation with the palace. It keeps Northern Ireland fully aligned with the rest of the United Kingdom.

Motion agreed.

Health and Social Care Act (Northern Ireland) 2022 (Consequential Amendments) Order 2022

Considered in Grand Committee

4.11 pm

Moved by ***Lord Caine***

That the Grand Committee do consider the Health and Social Care Act (Northern Ireland) 2022 (Consequential Amendments) Order 2022.

The Parliamentary Under-Secretary of State, Northern Ireland Office (Lord Caine) (Con): My Lords, I hope to be even shorter with this piece of legislation. The Health and Social Care (Northern Ireland) Act was passed by the Northern Ireland Assembly earlier this year and received Royal Assent on 7 February 2022. The Act provided for the dissolution of the regional Health and Social Care Board and the transfer of its functions to the five Northern Ireland health and social care trusts.

A number of UK Parliament and Scottish Parliament Acts reference the now dissolved regional Health and Social Care Board, where amending those references would be outside the legislative competence of the Northern Ireland Assembly. Secondary legislation is therefore required to make consequential amendments to update references to the regional Health and Social Care Board so that the

"Northern Ireland Department of Health or health and social care trusts"

are referenced instead. This technical order seeks to update these references.

Although the order is primarily for administrative purposes, I would like to give a bit of background on the Health and Social Care (Northern Ireland) Act. All noble Lords will be aware that health is a devolved matter in Northern Ireland. The primary purpose of the Act was to implement recommendations made following a number of independent reviews and reports that had been commissioned over a number of years, from Donaldson to Bengoa, which found the current health system to be "overly bureaucratic and complex". Those recommendations included the dissolution of the regional Health and Social Care Board and the transfer of its functions to the five Northern Ireland health and social care trusts.

As I said, the Act to give effect to this received Royal Assent on 7 February 2022, after which the Northern Ireland Health Minister, Robin Swann, requested that my department take forward secondary legislation to make consequential amendments to UK Parliament and Scottish Parliament Acts where the regional Health and Social Care Board is referenced.

Since then, officials have worked closely with colleagues across a range of UK government departments and with legal colleagues to identify the list of Acts where the now dissolved board is referenced, of which there are a total of 25. Twenty-three of those are UK Parliament Acts and two are Scottish Parliament Acts.

As I said, the order before your Lordships simply seeks to update references to the now dissolved body. There are no policy implications whatever; it is just a technical updating which the Government are taking forward. I beg to move.

4.15 pm

Lord Murphy of Torfaen (Lab): It will not be quite so short and uncontroversial next week—I suspect the Minister will have a few more hours on his feet than today—but on this one he is absolutely right. It is something we support.

It reminds us that there is of course an Assembly, which passed these changes some time ago. It also reminds us that this is an attempt to ensure that the health service in Northern Ireland is more efficient than it was. From a very good point of view, it shows the rest of the United Kingdom that health and social services go together. This operates well in Northern Ireland—it always has—and I am not quite sure why we do not take a leaf from the Northern Ireland book. It is something we admire.

What we cannot admire is the fact that there are no Ministers in Northern Ireland running the show, so far as health is concerned. We all know that there is a serious problem with waiting lists in Northern Ireland at both primary and secondary healthcare levels. There are huge difficulties in staffing, finance and so on. The problem is that there is no political authority in Northern Ireland to deal with these huge issues.

In a day we will have a new Prime Minister, and we might have a new Secretary of State for Northern Ireland. I hope that we do not have a new Minister for Northern Ireland in the Lords and that the Minister retains his position, because he knows a huge amount about the issues and the place, but there has to be even greater impetus. I know we have the protocol Bill and the legacy Bill coming up—these are all difficult issues to address—but, at the end of the day, unless we have a functioning Government in Northern Ireland only one other thing can happen. Ultimately, it will have to be direct rule. It would be a complete disaster if that had to happen, but you cannot leave civil servants running the show in Northern Ireland any longer, particularly with regard to health, so there is an impetus for the new Government and new Prime Minister, and possibly new Secretary of State, to resolve the impasse in Northern Ireland. We all know why it is there—I will not go into any of that—but I am sure that all Members in this Committee, particularly those from Northern Ireland, understand the significance and importance of having a Minister of Health who can operate as other Ministers can in a liberal parliamentary democracy.

I am sure that our belief, right across the House, is the same: let us restore the institutions, have Ministers and have an Assembly that is running, as in Scotland and Wales. Let us resolve those problems by proper, deep negotiation.

Baroness Brinton (LD): My Lords, I will intervene from the Liberal Democrat Front Bench on this one. I could see the alarm in the Minister's eyes that a Westminster health and care spokesperson might try to intervene on an order to do with Northern Ireland health and care. I assure him that it is as technical as his contribution at the beginning. We have no problem at all with the statutory instrument in front of us today.

I want to make one point, which I hope the Minister will take back. The noble Lord, Lord Murphy, may be aware that the Health and Care Act is the first real attempt by a Government in this country to combine health and social care, so Westminster, on behalf of England, is finally getting its act together and combining the two—which, whatever opposition we had to elements of it, we certainly welcomed. In March, during its passage through your Lordships' House, a number of amendments were ruled out of order because they referred to some of the UK-wide legislation that the

Minister referred to in his opening. We were told that an agreement had been struck by the Government with all three devolved nations, which had already taken their legislation through, and therefore that amendments we wished to lay could not be laid.

They were very minor and technical, so I will not go into them here. However, if we are going to talk about the importance of devolved responsibilities and try to mend some of the complex technical issues around legislation that crosses into UK-wide legislation, those working on Bills, certainly in your Lordships' House, need to know at a much earlier stage where those discussions need to be had. It would have helped the transition of the Health and Care Bill, which was enacted on 28 April—some two months after the Act we are discussing was enacted—because there were things we would have liked to change and would have raised much earlier, had we been aware that there were issues.

Baroness Ritchie of Downpatrick (Lab): My Lords, I support this very technical order. Like the noble Lord, Lord Murphy, I make a plea yet again for negotiation between all parties and both Governments to get the institutions up and working to look at the areas where there are problems or impediments, including in the protocol, and any other issues.

The most important thing that the people of Northern Ireland require is a functional Government who are delivering for all of us on health and social care, the economy, infrastructure and job creation. In relation to this, I agree with the noble Lord, Lord Murphy. There are chronic waiting lists in Northern Ireland for specific disciplines. There are also waiting lists to get on to waiting lists, which can cause such consternation for individuals who are ill. That has been the situation for quite some time.

I do not disagree with the assimilation of the Health and Social Care Board into the Department of Health and the five health trusts. As a former MP I had experience of dealing with the Health and Social Care Board and the health trusts. I could never fully understand or appreciate the difference in their workload, because the health and social care board commissioned the services and acted as the prescriber of what services were required. Notwithstanding that, that is a job better done by the Department of Health.

In relation to that, maybe the Minister would have talked to the current caretaker Minister, Minister Swann, who served as Health Minister for the last nearly three years, about what savings are projected from the assimilation of the Health and Social Care Board into the department and trusts. Will those savings be ploughed back into the delivery arm of the trusts so that people can access services in the medical and clinical areas to which they are entitled?

Lord Lexden (Con): When my noble friend comes to reply, could he give the Committee an impression of whether the problems with the health service in Northern Ireland, although very considerable, have deepened yet further during this unfortunate period, which strengthens the reasons why we want devolution back?

Lord Caine (Con): I am incredibly grateful to noble Lords for their contributions on what I rightly described as a very technical piece of secondary legislation. The main theme of contributions was the current problems in the health service in Northern Ireland and the need for a properly functioning Executive and Assembly to address them. I think we all agree on that. I reiterate what I said on the previous regulations: the Government and the Northern Ireland Office are fully committed, and I am personally committed, to doing whatever we can do ensure that those institutions are back up and running as quickly as possible.

The noble Lord, Lord Murphy, was not entirely accurate when he said that there were no Ministers in place at the moment. He will know, as the noble Baroness, Lady Ritchie of Downpatrick, acknowledged, that as a result of the Northern Ireland (Ministers, Elections and Petitions of Concern) Act, which we passed earlier this year, there is provision for Ministers to stay in place for up to 28 weeks after an election.

Lord Murphy of Torfaen (Lab): I realised after I said it that I had dropped a clanger, but the point I was trying to make, which I am sure the Minister will come to, is that they are not Ministers in the sense of being completely accountable in the way that an ordinary Minister would be in any other legislature. Although they have limited powers, which they undoubtedly exercise as well as they can, it is not the same as if they were Ministers in a functioning Assembly and Executive.

Lord Caine (Con): The noble Lord is absolutely correct to point that out. It is 24 weeks; I said 28 because the current deadline is 28 October. Although Ministers can stay in place, they are very limited as to what they can do—they cannot take decisions that would require executive agreement because there is no functioning Executive and they cannot take decisions that would be cross-cutting with other departments—but it is a preferable situation to the one we had when the Assembly was last down, when just civil servants were running the show. I am all too well aware of the limitations. For that reason, noble Lords are absolutely right to set out once again the urgency of restoring a properly functioning Executive and Assembly in which Ministers are fully accountable to the Assembly and, through the Assembly, to their respective electorates within Northern Ireland.

The noble Baroness, Lady Ritchie, again underlined with her questions on certain aspects of the legislation the importance of getting the Assembly back. Although her questions were directed at me they really should be directed by MLAs to the Health Minister. I am very happy to look into the matter for her, but it is essentially a devolved one on which further elucidation would be gained through Health Minister's Questions in the Assembly rather than in a House of Lords Grand Committee.

Baroness Ritchie of Downpatrick (Lab): I asked the question because we as a House of Lords are being asked to approve an order that would enable a change in in English, Welsh and Scottish legislation to reflect the dissolution of the Health and Social Care Board. In view of that, would the question not be quite

[Baroness Ritchie of Downpatrick]
prescient? I also thank him for going to ask the current Minister for that information on the projected savings and whether they will be ploughed back into the service.

Lord Caine (Con): As I said to the noble Baroness, I am perfectly happy to do so. I appreciate that no MLA is able to stand up in the Assembly and ask those questions at the moment, so I am happy to look into the matter and come back to her.

I welcome the noble Baroness, Lady Brinton, to her place. She correctly identified my look of alarm at the fact that a Westminster health spokeswoman had come into a debate on Northern Ireland matters. She will be aware that I played no role whatever in the passing of the health and social care Act, so I must confess to a certain degree of ignorance of some of the matters she raised. Again, I am happy to look into them for her.

Baroness Brinton (LD): I was making a generic point for Ministers to take away that, where these things emerge, I suspect it would be useful if there were some wider discussions, at least with the Front-Benchers involved with the relevant Bills. It is somewhat frustrating three-quarters of the way through a Bill to suddenly be told that amendments cannot happen, but I am absolutely not asking the noble Lord to deal with that on its own. We respect devolved authority and think it is really important, but we all have to learn how to work together. In this Bill, for once, it was the Westminster side that was left out until after other things had happened.

4.30 pm

Lord Caine (Con): I am grateful to the noble Baroness. Like her and many others in this Committee, I am a strong supporter of devolution across the United Kingdom and wish to see it function smoothly, efficiently and harmoniously across all parts of our country. I am very happy to have a look at what she suggested.

My noble friend Lord Lexden asked again about the problems in the health service. On the measures that might be necessary, I talked about the limitations on Ministers in the current scenario we face. Without straying into devolved policy areas, there are probably some quite radical measures and actions that need to be taken to deal with the situation that would be cross-cutting in the Executive, would require executive approval and would need to be quite bold, but which simply cannot happen within the current constraints, without a properly functioning Executive.

My noble friend is absolutely right: things are in a pretty poor state in Northern Ireland and this just underlines the need for the devolved Government to be back up and running as soon as possible. Although I do not necessarily share the reasons, I completely understand why the institutions are not up and running. That is why, without wishing to stray too much into other policy areas, the Government—including under the new Prime Minister, I am sure—are committed to resolving the issues which are preventing the establishment of the devolved Government that we all wish to see up and running. On that note, I commend the order to the Committee.

Motion agreed.

Committee adjourned at 4.32 pm.